



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 14, 2009

Mr. Phillip A. McKinney  
Cano & McKinney  
Attorney for Del Mar College  
P.O. Box 2747  
Corpus Christi, Texas 78403

OR2009-14515

Dear Mr. McKinney:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 358413.

Del Mar College (the "college"), which you represent, received a request for the "recruitment files" for a specified position. You state you will redact social security numbers pursuant to section 552.147 of the Government Code.<sup>1</sup> You claim that portions of the submitted information are excepted from disclosure under sections 552.130, 552.137, and 552.140 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>2</sup>

We note that some of the submitted information may be subject to section 552.117(a)(1) of the Government Code, which excepts from disclosure the home addresses and telephone

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<sup>1</sup>We note that section 552.147(b) authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

<sup>2</sup>We assume that the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

numbers, social security numbers, and family member information of current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024.<sup>3</sup> Gov't Code § 552.117(a)(1). Whether a particular piece of information is protected by section 552.117 must be determined at the time the request for it is made. *See* Open Records Decision No. 530 at 5 (1989). We note that a portion of the submitted information consists of the personal information of college job applicants. However, you do not inform us whether any of these applicants are former or current employees of the college who made timely elections of confidentiality under section 552.024. Therefore, we must rule conditionally. If any of the applicants are former or current employees of the college and made timely elections to withhold their information under section 552.024, then the college must withhold that information under section 552.117(a)(1). We have marked the types of information in the representative sample which must be withheld if a former or current employee of the college elected to have that information withheld. However, the college may not withhold this type of information under section 552.117(a)(1) if the applicant is not a current or former employee of the college or if a timely election for that information was not made under section 552.024.

Section 552.130 of the Government Code exempts from disclosure "information [that] relates to . . . a motor vehicle operator's or driver's license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state[.]" Gov't Code § 552.130. Accordingly, the college must withhold the Texas motor vehicle record information we have marked pursuant to section 552.130 of the Government Code.

Section 552.137 of the Government Code states that "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure under [the Act]," unless the owner of the e-mail address has affirmatively consented to its public disclosure. *Id.* § 552.137(a)-(b). The e-mail addresses we have marked in the submitted information do not appear to be of types excluded by section 552.137(c). *See id.* § 552.137(c). Accordingly, the college must withhold the e-mail addresses we have marked under section 552.137 of the Government Code, unless you receive consent for their release.

Section 552.140 provides that a military veteran's DD-214 form or other military discharge record that is first recorded with or that otherwise first comes into the possession of a governmental body on or after September 1, 2003 is confidential for a period of seventy-five years and may only be disclosed in accordance with section 552.140 or in accordance with a court order. *See id.* § 552.140(a), (b). You state the college first came into possession of the submitted DD-214 form on or after September 1, 2003. Thus, we conclude the college must withhold the submitted DD-214 form under section 552.140 of the Government Code.

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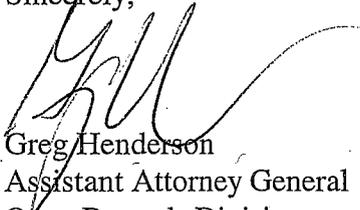
<sup>3</sup>The Office of the Attorney General will raise a mandatory exception like section 552.117 of the Government Code on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

In summary, to the extent any of the applicants are former or current employees of the college and made timely elections to withhold their information under section 552.024, the college must withhold the types of information we have marked under section 552.117(a)(1) of the Government Code. The college must withhold the information we have marked under section 552.130 of the Government Code. The college must also withhold the e-mail addresses we have marked under section 552.137 of the Government Code, unless the college receives consent for their release. The college must withhold the submitted DD-214 form under section 552.140 of the Government Code. The remaining information must be released.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Greg Henderson  
Assistant Attorney General  
Open Records Division

GH/rl

Ref: ID# 358413

Enc. Submitted documents

c: Requestor  
(w/o enclosures)