



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 5, 2010

Mr. Scott A. Kelly  
Deputy General Counsel  
The Texas A&M University System  
200 Technology Way, Suite 2079  
College Station, Texas 77845-3424

OR2010-01882

Dear Mr. Kelly:

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# 369689.

The Texas A&M University System (the "system") received a request for communications between the system's student regent and the board of regents between May 1, 2009, and October 31, 2009, and open records requests pertaining to the board of regents between April 1, 2009, and August 31, 2009. You state you are releasing the open records requests. You claim that portions of the submitted information are excepted from disclosure under section 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of the requested information.<sup>1</sup>

You seek to withhold e-mail addresses contained in the submitted information pursuant to section 552.137 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

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<sup>1</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.

disclosure under [the Act],” unless the owner of the e-mail address has affirmatively consented to its public disclosure. Gov’t Code § 552.137(a)-(b). The types of e-mail addresses listed in section 552.137(c) may not be withheld under this exception. *See id.* § 552.137(c). You state that the owners of the e-mail addresses have not consented to their release. Therefore, the system must withhold the e-mail addresses you have marked under section 552.137.<sup>2</sup>

We note the remaining information contains cellular telephone numbers. Section 552.117(a)(1) of the Government Code excepts from disclosure the current and former home addresses and telephone numbers, social security number, 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 of the Government Code.<sup>3</sup> Section 552.117 also encompasses a personal cellular telephone number, provided that a governmental body does not pay for the cellular telephone service. *See* Open Records Decision No. 506 at 5-6 (1988) (Gov’t Code § 552.117 not applicable to cellular telephone numbers paid for by governmental body and intended for official use). Whether a particular piece of information is protected by section 552.117(a)(1) must be determined at the time the request for it is made. *See* Open Records Decision No. 530 at 5 (1989). To the extent the information we have marked to system officials or employees who timely elected confidentiality under section 552.024, the system must withhold the marked information under section 552.117(a)(1). *See* Open Records Decision No. 674 (2001) (section 552.117 does not apply to applicants for governmental employment or appointment, but to employees or appointees hired by a governmental body).

In summary, the system must withhold the information you have marked under section 552.137. The system must withhold the marked information under section 552.117(a)(1) to the extent system officials or employees timely elected confidentiality under section 552.024. 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

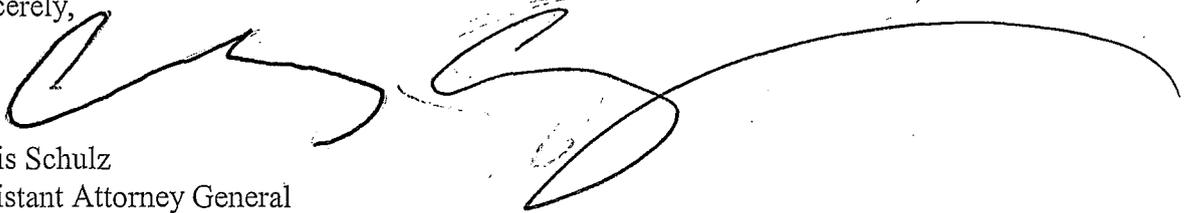
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<sup>2</sup>We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including e-mail addresses under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

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

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,

A handwritten signature in black ink, appearing to read 'Chris Schulz', with a long, sweeping horizontal line extending to the right.

Chris Schulz  
Assistant Attorney General  
Open Records Division

CS/cc

Ref: ID# 369689

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)