



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 18, 2010

Mr. W. Montgomery Meitler  
Assistant Counsel  
Office of Legal Services  
Texas Education Agency  
1701 North Congress Avenue  
Austin, Texas 78701-1494

OR2010-02475

Dear Mr. Meitler:

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# 370503 (TEA PIR# 12258).

The Texas Education Agency (the "agency") received a request for a report that instigated an agency investigation of the requestor's client. You claim the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information protected by chapter 411 of the Government Code, which deems confidential criminal history record information ("CHRI") generated by the National Crime Information Center or by the Texas Crime Information Center. *Id.* § 411.083(a). CHRI means "information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions." *Id.* § 411.082(2). Section 411.083 authorizes the Texas Department of Public Safety ("DPS") to disseminate CHRI to "noncriminal justice agencies authorized by . . . state statute to receive criminal history record information[.]" *Id.* § 411.083(b)(2). Section 411.090 of the Government Code provides in part:

(a) The State Board for Educator Certification [the "SBEC"] is entitled to obtain from the [DPS] any [CHRI] maintained by the [DPS] about a person who has applied to the [SBEC] for a certificate under Subchapter B, Chapter 21, Education Code.

(b) [CHRI] obtained by the [SBEC] in the original form or any subsequent form:

(1) may be used only for a purpose related to the issuance, denial, suspension, or cancellation of a certificate issued by the board;

(2) may not be released to any person except:

(A) the person who is the subject of the information [and]

...

(3) is not subject to disclosure as provided by Chapter 552[.]

*Id.* § 411.090(a), (b). We note the agency has assumed the duties of the SBEC.<sup>1</sup> You inform us the agency obtained the CHRI of the requestor's client pursuant to section 411.090 of the Government Code. Upon review, we agree the submitted information constitutes CHRI for the purposes of chapter 411. However, we note that section 411.090(b)(2)(A) allows the release of CHRI to the person who is the subject of the CHRI. *See id.* § 411.090(b)(2)(A). Therefore, pursuant to section 411.090(b)(2)(A) of the Government Code, as the authorized representative of the person whose CHRI is at issue, the requestor is entitled to the release of her client's CHRI. Accordingly, the submitted information must be released to the requestor.<sup>2</sup>

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<sup>1</sup>The 79th Texas Legislature passed House Bill 1116, which required the transfer of SBEC's administrative functions and services to the agency, effective September 1, 2005.

<sup>2</sup>We note you have marked the requestor's client's social security number for redaction. Section 552.147(b) of the Government Code 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. Gov't Code § 552.147. However, as the authorized representative of the individual at issue, the requestor has a right of access to her client's social security number and it must be released to her. *See generally id.* § 552.023(b) (person or person's authorized representative has special right of access to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person's privacy interests). Thus, the agency may not withhold the requestor's client's social security number from her. We also note that because the requestor has a special right of access to her client's information, if the agency receives another request for this information from a different requestor, the agency must again seek a ruling from this office.

Next, you request that this office issue a previous determination that would permit the agency in the future to withhold from disclosure CHRI under section 552.101 of the Government Code in conjunction with federal law and chapter 411 of the Government Code without requesting a ruling from this office. We decline to issue such a previous determination at this time.

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,



Amy L.S. Shipp  
Assistant Attorney General  
Open Records Division

ALS/rl

Ref: ID# 370503

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)