



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 9, 2010

Ms. Elisabeth A. Donley
Law Offices of Robert E. Luna, P.C.
4411 North Central Expressway
Dallas, Texas 75205

OR2010-16980

Dear Ms. Donley:

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# 399587.

The Garland Independent School District (the "district"), which you represent, received a request from an investigator with the Texas Education Agency (the "TEA") for six categories of information relating to a former district employee. You state you have released or will release some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.102, 552.130, 552.137, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You contend the submitted information includes Texas motor vehicle record information excepted from public disclosure under section 552.130 of the Government Code. Section 552.130 excepts from disclosure information that relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state. Gov't Code § 552.130. Accordingly, the district must withhold the Texas motor vehicle record information we have marked under section 552.130 of the Government Code.¹ However,

¹You acknowledge this office issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas driver's license number and a copy of a Texas driver's license under section 552.130 of the Government Code, without the necessity of requesting a ruling from this office.

none of the remaining information you have highlighted consists of Texas motor vehicle record information, and it may not be withheld on that basis.

We note the TEA's request states it is seeking this information under the authority provided to the State Board for Educator Certification ("SBEC") by section 249.14 of title 19 of the Texas Administrative Code.² Accordingly, we will consider whether section 249.14 of title 19 of the Texas Administrative Code permits the TEA to obtain information that is otherwise protected by the exception discussed above. *See* Open Records Decision No. 451 at 4 (1986) (specific access provision prevails over generally applicable exception to public disclosure).

Chapter 249 of title 19 of the Texas Administrative Code governs disciplinary proceedings, sanctions, and contested cases involving the SBEC. *See* 19 T.A.C. § 249.4. Section 249.14 provides in relevant part:

(a) [TEA] staff may obtain and investigate information concerning alleged improper conduct by an educator, applicant, examinee, or other person subject to this chapter that would warrant [SBEC] denying relief to or taking disciplinary action against the person or certificate.

...

(c) The TEA staff may also obtain and act on other information providing grounds for investigation and possible action under this chapter.

19 T.A.C. § 249.14(a), (c). In this instance, the TEA requestor states that he is investigating allegations made against the former district employee and that he needs to review the requested records to determine whether measures need to be taken against this person's teaching credentials. Thus, we find the information at issue is subject to the general right of access afforded to the TEA under section 249.14. However, because some of the requested information is specifically protected from public disclosure by the statute discussed above, we find there is a conflict between that statute and the right of access afforded to the TEA's investigators under section 249.14.

We note that where general and specific provisions are in irreconcilable conflict, the specific provision typically prevails as an exception to the general provision unless the general

²Chapter 21 of the Education Code authorizes SBEC to regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators. *See* Educ. Code § 21.031(a). Section 21.041 of the Education Code states SBEC may "provide for disciplinary proceedings, including the suspension or revocation of an educator certificate, as provided by Chapter 2001, Government Code." *Id.* § 21.041(b)(7). Section 21.041 also authorizes SBEC to "adopt rules as necessary for its own procedures." *Id.* § 21.041(a).

provision was enacted later and there is clear evidence that the legislature intended the general provision to prevail. *See* Gov't Code § 311.026(b); *City of Lake Dallas v. Lake Cities Mun. Util. Auth.*, 555 S.W.2d 163, 168 (Tex. Civ. App.—Fort Worth 1977, writ ref'd n.r.e.). In this instance, although section 249.14 generally allows the TEA access to information relating to suspected misconduct on the part of an educator, section 552.130 of the Government Code specifically protects Texas motor vehicle record information and has its own release provisions. Thus, section 552.130 prevails over the general TEA right of access. We therefore conclude that, notwithstanding the provisions of section 249.14, the district must withhold the information we have marked under section 552.130 of the Government Code.

You assert some of the remaining information is excepted from disclosure under sections 552.102, 552.137, and 552.147 of the Government Code.³ However, these sections are general exceptions to disclosure that do not have their own release provisions. Therefore, the TEA's statutory right of access under section 249.14 prevails, and none of the remaining information may be withheld under these sections. *See* Open Records Decision No. 525 (1989) (exceptions to disclosure do not apply to information made public by other statutes).

In summary, the district must withhold the information we have marked under section 552.130 of the Government Code. The district must release the remaining information to the TEA requestor pursuant to section 249.14 of title 19 of the Texas Administrative Code.⁴

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_or1.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

³Section 552.102(b) excepts from disclosure all information from transcripts of a professional public school employee other than the employee's name, the courses taken, and the degree obtained. Gov't Code § 552.102. Section 552.137 excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body" unless the member of the public consents to its release. *Id.* § 552.137. Section 552.147 excepts from disclosure the social security number of a living person. *Id.* § 552.147.

⁴Because the TEA has a right of access to certain information in the submitted documents that otherwise would be excepted from release under the Act, the district must again seek a decision from this office if it receives a request for this information from a different requestor without such a right of access.

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 "Mack T. Harrison". The signature is fluid and cursive, with a long horizontal stroke at the end.

Mack T. Harrison
Assistant Attorney General
Open Records Division

MTH/em

Ref: ID# 399587

Enc. Submitted documents

c: Requestor
(w/o enclosures)