



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 11, 2011

Ms. Rebecca Merrill
Assistant General Counsel
Teacher Retirement System of Texas
1000 Red River Street
Austin, Texas 78701

OR2011-00535

Dear Ms. Merrill:

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# 405586.

The Teacher Retirement System of Texas (the "system") received two requests from the same requestor for the personnel file of a named individual, as well as any demand letters and settlement agreements regarding the employment of this individual. Although you take no position on whether the submitted information is excepted from disclosure, you indicate that release of the submitted information may implicate the privacy interests of the individual whose information is at issue. Accordingly, you notified this individual of the request and of his right to submit arguments to this office as to why his information should not be released. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have reviewed the submitted information.

We note the submitted information contains the personal information of a system employee. Section 552.117(a)(1) of the Government Code excepts from disclosure the home addresses and telephone numbers, social security numbers, and family member information of current or former officials or employees of a governmental body who request this information

be kept confidential under section 552.024 of the Government Code.¹ *See id.* §§ 552.117(a)(1), .024. 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). The system may only withhold information under section 552.117(a)(1) on behalf of a former or current employee who made a request for confidentiality under section 552.024 prior to the date on which the request for information was made. We note the submitted information contains an election form for the employee whose information is at issue. This election form reflects that, at the time the system received the request, the individual whose information is at issue elected to restrict access to his personal information under section 552.024. Accordingly, the system must withhold ~~the information we have marked under section 552.117(a)(1) of the Government Code.~~

We also note the information at issue contains personal e-mail addresses. Section 552.137 of the Government Code 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 or the e-mail address is of a type specifically excluded by subsection (c). *See* Gov’t Code § 552.137(a)-(c). The e-mail addresses listed in the information at issue are not specifically excluded by section 552.137(c). As such, these e-mail addresses, which we have marked, must be withheld under section 552.137, unless the owner of the addresses has affirmatively consented to their release.² *See id.* § 552.137(b).

In summary, the system must withhold the information we have marked under section 552.117(a)(1) of the Government Code. The system must also withhold the personal e-mail addresses we have marked under section 552.137, unless the owner of the addresses has affirmatively consented to their release. 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, or call the Office of the Attorney General’s Open Government Hotline, toll free,

¹The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

²Open Records Decision No. 684 (2009) serves as a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including e-mail addresses of members of the public under section 552.137, without the necessity of requesting an attorney general decision.

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,



Vanessa Burgess
Assistant Attorney General
Open-Records-Division

VB/dls

Ref: ID# 405586

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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