



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 17, 2011

Mr. Rusty Meurer
Kazen, Meurer & Perez, L.L.P.
211 Calle Del Norte, Suite 100
Laredo, Texas 78041

OR2011-17010

Dear Mr. Meurer:

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# 436619.

The Laredo Community College District (the "district"), which you represent, received a request for information related to a grievance filed by a named individual. You do not take a position as to whether the submitted information is excepted from disclosure under the Act. You inform us you notified the named individual of the district's receipt of the request for information and of her right to submit arguments to this office as to why the requested information should not be released to the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). However, as of the date of this ruling, we have not received comments from the individual regarding the release of the requested information. We have reviewed the submitted information.

Section 552.101 of the Government Code is applicable to some of the submitted information.¹ Section 552.101 excepts from disclosure "information considered to be

¹The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body. *See* Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987); *see, e.g.*, Open Records Decision No. 470 at 2 (1987) (because release of confidential information could impair rights of third parties and because improper release constitutes a misdemeanor, attorney general will raise predecessor statute of section 552.101 on behalf of governmental bodies).

confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 552.101. This section encompasses the doctrine of common-law privacy, which protects information that (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The types of information considered intimate or embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. This office has found the following types of information are excepted from required public disclosure under common-law privacy: some kinds of medical information or information indicating disabilities or specific illnesses, *see* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps); and personal financial information not relating to the financial transaction between an individual and a governmental body, *see* Open Records Decision Nos. 600 (1992), 545 (1990). However, this office has also found the public has a legitimate interest in information relating to employees of governmental bodies and their employment qualifications and job performance. *See* Open Records Decision Nos. 470 at 4 (public has legitimate interest in job qualifications and performance of public employees), 405 at 2-3 (1983) (public has interest in manner in which public employee performs job). Some of the submitted information is highly intimate or embarrassing and is not of legitimate concern to the public. Therefore, the district must withhold this information, which we have marked, under section 552.101 in conjunction with common-law privacy.

Section 552.117 of the Government Code may also be applicable to some of the submitted information. Section 552.117(a)(1) excepts from disclosure the home addresses and telephone numbers, emergency contact information, 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 of the Government Code. Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 2 (to be codified as an amendment to Gov’t Code § 552.117(a)). Section 552.117 also encompasses a personal cellular telephone number, provided that a governmental body does not pay for the cellular phone service. *See* Open Records Decision No. 506 at 5-6 (1988) (Government Code section 552.117 not applicable to cellular telephone numbers paid for by governmental body and intended for official use). Whether a particular item of information is protected by section 552.117(a)(1) must be determined at the time of the governmental body’s receipt of the request for the information. *See* Open Records Decision No. 530 at 5 (1989). Thus, information may be withheld under section 552.117(a)(1) only on behalf of a current or former official or employee who made a request for confidentiality under section 552.024 prior to the date of the governmental body’s receipt of the request for the information. Therefore, the district must withhold the information we have marked under section 552.117(a)(1) request for confidentiality under section 552.024 prior to the date on which the request for this information was made; however, the district may only withhold the marked

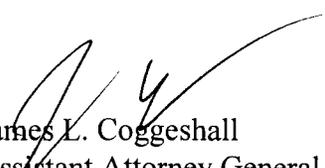
cellular telephone numbers under section 552.117 if the employees concerned paid for the cellular telephone service.

To conclude, the district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The district must also withhold the information we have marked under section 552.117(a)(1) of the Government Code if the employees at issue timely elected to withhold that information; however, the district may only withhold the marked cellular telephone numbers under section 552.117 if the employees concerned paid for the cellular telephone service. The district must release the remaining information.

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, 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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/ag

Ref: ID# 436619

Enc. Submitted documents

c: Requestor
(w/o enclosures)