



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 10, 2012

Ms. Brandy N. Davis  
For Collin County Community College District  
Abernathy, Roeder, Boyd, & Joplin, P.C.  
P.O. Box 1210  
McKinney, Texas 75070-1210

OR2012-16196

Dear Ms. Davis:

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# 467545.

The Collin County Community College District (the "college"), which you represent, received a request from two requestors for all settlement agreements between the college and any employees, consultants, advisors, and contractors during a specified period of time. Although you take no position on whether the submitted information is excepted from disclosure, you state release of the information may implicate the privacy interests of third parties. Accordingly, you notified the third parties of the request for information and of their right to submit arguments to this office as to why the submitted information should not be released.<sup>1</sup> See Gov't Code § 552.304 (interested party may submit written comments regarding availability of requested information). We have considered comments received from one of the third parties and reviewed the submitted information.

We understand the third party to raise common-law privacy for her settlement agreement. 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. Section 552.101 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

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<sup>1</sup>We note, as of the date of this letter, we have only received comments from one of the notified third parties.

concern to the public. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *See id.* at 681-82. 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. *See id.* at 683. However, the public generally has a legitimate interest in information that relates to public employment and public employees. *See* Open Records Decision Nos. 542 at 5 (1990), 470 at 4 (1987) (public has legitimate interest in job qualifications and performance of public employees), 444 at 5-6 (1986) (public has legitimate interest in knowing reasons for dismissal, demotion, promotion, or resignation of public employees), 423 at 2 (1984) (scope of public employee privacy is narrow). Upon review, we find none the submitted information to be highly intimate or embarrassing and not of legitimate public interest. Accordingly, none of the submitted information may be withheld under section 552.101 in conjunction with common-law privacy.

We note portions of the submitted information may be subject to section 552.117(a)(1) of the Government Code, which excepts from disclosure the home address and telephone number, social security number, emergency contact information, and family member information of a current or former employee of a governmental body who requests this information be kept confidential under section 552.024 of the Government Code.<sup>2</sup> Gov't Code § 552.117(a)(1). 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 only be withheld under section 552.117(a)(1) on behalf of a current or former 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, if the individuals whose information we have marked timely requested confidentiality under section 552.024, the college must withhold the marked information under section 552.117(a)(1) of the Government Code. However, if the individuals whose information is at issue did not make timely elections under section 552.024, the college may not withhold the information we have marked under section 552.117(a)(1) of the Government Code. As no arguments against disclosure have been raised for the remaining information, it 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.

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<sup>2</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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,



Kathleen J. Santos  
Assistant Attorney General  
Open Records Division

KJS/dls

Ref: ID# 467545

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)