



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 5, 2014

Ms. Maria E. Miller
Legal Department
Dallas County Community College District
1601 South Lamar Street, Suite 208
Dallas, Texas 75215

OR2014-13578

Dear Ms. Miller:

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# 531619.

The Dallas County Community College District (the "district") received a request for "[t]hree criminal offense reports or complaints that [a named individual] filed with the Mountain View College Police Department." The district received a second request from the same requestor for "[t]wo charges of discrimination filed against [the district]" by the same named individual. You inform us the district has released some information to the requestor. You claim the submitted 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 "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 is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person and (2) not of legitimate concern to the public. *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. *Id.* at 681-82.

Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation. Id.* at 683; *see also Morales v. Ellen*, 840 S.W.2d 519 (Tex. App.—El Paso 1992, writ denied) (identity of witnesses to and victims of sexual harassment was highly intimate or embarrassing information and public did not have a legitimate interest in such information). Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated that the requestor knows the identity of the individual involved, as well as the nature of certain incidents, the entire report must be withheld to protect the individual's privacy.

You seek to withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy. Upon review, we find you have not demonstrated, and the information at issue does not reflect, this is a situation in which the information at issue must be withheld in its entirety to protect an individual's privacy interest. However, we find the information we have marked is highly intimate or embarrassing and of no legitimate public interest. Therefore, the district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. We find the remaining information is not confidential under common-law privacy and the district may not withhold it under section 552.101 of the Government Code on this basis.

Section 552.102(a) of the Government Code excepts from disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy."¹ Gov't Code § 552.102(a). The Texas Supreme Court has considered the applicability of section 552.102, and has held section 552.102(a) excepts from disclosure the dates of birth of state employees in the payroll database of the Texas Comptroller of Public Accounts. *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex.*, 354 S.W.3d 336, 348 (Tex. 2010). Upon review, we conclude the district must withhold the date of birth we have marked under section 552.102(a) of the Government Code.

Section 552.117(a)(1) of the Government Code 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. 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)*. We note section 552.117 is also applicable to personal cellular telephone numbers, provided the cellular telephone service is not paid for by a governmental body. *See Open Records*

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)*.

Decision No. 506 at 5-6 (1988) (section 552.117 not applicable to cellular telephone numbers paid for by governmental body and intended for official use). We also note section 552.117 does not apply to an individual's work telephone number. Whether a particular piece of information is protected by section 552.117(a)(1) must be determined at the time the request for it is made. *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.

We have marked information pertaining to district employees. Therefore, if the individuals whose information is at issue made timely elections under section 552.024, the district must withhold the home addresses and telephone numbers, emergency contact information, social security numbers, and family member information of current or former officials or employees under section 552.117(a)(1) of the Government Code, including personal cellular telephone numbers, provided the cellular telephone service is not paid for by a governmental body. The district may not withhold the information at issue under section 552.117 if the individuals did not make timely elections under section 552.024 or if the cellular telephone service is paid for by a governmental body.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or a personal identification document issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130. The district must withhold the information we have marked under section 552.130 of the Government Code.

In summary, 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 withhold the date of birth we have marked under section 552.102(a) of the Government Code. If the individuals whose information is at issue made timely elections under section 552.024 of the Government Code, the district must withhold home addresses and telephone numbers, emergency contact information, social security numbers, and family member information of current or former officials or employees under section 552.117(a)(1) of the Government Code, including personal cellular telephone numbers, provided the cellular telephone service is not paid for by a governmental body. The district must withhold the information we have marked under section 552.130 of the Government Code. The remaining information must be released.²

²If the employee whose social security number is at issue did not make a timely section 552.024 election, we note 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 an attorney general decision under the Act. *See* Gov't Code § 552.147(b).

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 531619

Enc. Submitted documents

c: Requestor
(w/o enclosures)