



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 28, 2014

Ms. Cynthia Tynan
Office of General Counsel
University of Texas System
201 West Seventh Street
Austin, Texas 78701-2902

OR2014-19421

Dear Ms. Tynan:

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# 541469 (OGC# 157500).

The University of Texas at Arlington (the "university") received a request for a named employee's personnel file; reports regarding the performance of the Center for Mexican American Studies during a specified time period, including a specified report; and information related to the named employee's request for a promotion, including sixteen categories of information related to promotion and tenure. You state the university will release most of the requested information. You state you have redacted information pursuant to the Family Educational Rights and Privacy Act ("FERPA"), section 1232g of title 20 of the United States Code.¹ You further state you will redact information subject to section 552.117(a)(1) of the Government Code pursuant to section 552.024(c) of the Government Code.² You claim some of the submitted information is excepted from

¹The United States Department of Education Family Policy Compliance Office (the "DOE") has informed this office that FERPA does not permit state and local educational authorities to disclose to this office, without parental consent, unredacted, personally identifiable information contained in education records for the purpose of our review in the open records ruling process under the Act. The DOE has determined that FERPA determinations must be made by the educational authority in possession of the education records. We have posted a copy of the letter from the DOE to this office on the Attorney General's website: <http://www.oag.state.tx.us/open/20060725usdoe.pdf>.

²Section 552.024(c)(2) of the Government Code authorizes a governmental body to redact information protected by section 552.117(a)(1) of the Government Code without the necessity of requesting a decision under the Act if the current or former employee or official to whom the information pertains timely chooses not to allow public access to the information. See Gov't Code § 552.024(c)(2).

disclosure under section 552.102 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.³

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[.]” Gov’t Code § 552.102(a). The Texas Supreme Court 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 (Tex. 2010). Accordingly, the university must withhold the dates of birth you have marked under section 552.102(a) of the Government Code. As you raise no other exceptions to disclosure, the university must release the remaining information.

You also ask this office to issue a previous determination that would permit the University of Texas System (the “system”) and its institutions to withhold the dates of birth of former and current employees of the system and its institutions found in records held in an employment context under section 552.102(a), without the necessity of requesting a decision from this office. *See* Gov’t Code § 552.301(a); Open Records Decision No. 673 (2001) (previous determinations). We decline to issue such a decision at this time. Accordingly, 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,



Kristi L. Godden
Assistant Attorney General
Open Records Division

KLK/cz

³We assume that the “representative sample” of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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Enc. Submitted documents

c: Requestor
(w/o enclosures)