



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 2, 2015

Mr. Charles Horton  
Executive Director  
Texas Board of Professional Geoscientists  
P.O. Box 13225  
Austin, Texas 78711

OR2015-25193

Dear Mr. Horton:

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# 589029.

The Texas Board of Professional Geoscientists (the "board") received a request for information pertaining to a named individual. You claim the submitted information is excepted from disclosure under sections 552.117 and 552.137 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note some of the submitted information is not responsive to the instant request for information because it is outside the scope of the request. The ruling does not address the public availability of the non-responsive information, which we have marked, and that information need not be released.

Section 552.117(a)(1) of the Government Code excepts from disclosure the home address and telephone number, emergency contact information, social security number, and family member information of current or former employees or officials of a governmental body who request this information be kept confidential under section 552.024 of the Government Code. *See* Gov't Code § 552.117(a)(1). Whether a particular item of information is protected by

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<sup>1</sup>The board acknowledges it failed to comply with the procedural requirements of section 552.301 of the Government Code in requesting a decision from this office. *See* Gov't Code § 552.301(b) (requiring governmental body to ask for ruling and state exceptions that apply within ten business days of receiving written request). Nonetheless, sections 552.117 and 552.137 of the Government Code are mandatory exceptions that can provide compelling reasons to overcome the presumption of openness caused by a failure to comply with section 552.301. *See id.* §§ 552.007, .302. Thus, we will address the applicability of these exceptions to the submitted information, notwithstanding the board's violation of section 552.301 in requesting this decision.

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 employee or official 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. Information may not be withheld under section 552.117(a)(1) on behalf of a current or former employee or official who did not timely request under section 552.024 the information be kept confidential. You state the individual at issue timely requested confidentiality of her home address and telephone number under section 552.024 of the Government Code. Therefore, the board must generally withhold the information we have marked under section 552.117(a)(1) of the Government Code.

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). Gov't Code § 552.137(a)-(c). The e-mail address we have marked is not one of the types specifically excluded by section 552.137(c). *See id.* § 552.137(c). Accordingly, the board must generally withhold the e-mail address we have marked under section 552.137 unless the owner of the address affirmatively consents to its release.

In this instance, however, we note the requestor is a representative of the Texas Guaranteed Student Loan Corporation (the "corporation"). You state the requestor may have a right of access to the responsive information pursuant to section 57.49 of the Education Code. Section 57.49 provides, in pertinent part, "[e]ach agency and political subdivision [of the state] shall provide information to the corporation on request to assist the corporation in curing delinquent loans and collecting defaulted loans." Educ. Code § 57.49; *see also id.* § 57.02(2) (defining "corporation" for purposes of chapter 57 of Education Code as the Texas Guaranteed Student Loan Corporation). Thus, section 57.49 requires the board to release information to the corporation to assist the corporation in curing delinquent loans and collecting defaulted student loans. Accordingly, the corporation may have a right of access to the responsive information.

We are not able to determine whether the release of the information would be to assist the corporation in curing a delinquent loan or collecting on a defaulted loan. Thus, we must rule conditionally. If the board determines the release of the information would not be to assist the corporation in curing a delinquent loan or collecting on a defaulted loan, we find the corporation does not have a right of access to the responsive information under section 57.49. Conversely, if the board determines the release of the information would be to assist the corporation in curing a delinquent loan or collecting on a defaulted loan, we find the corporation has a right of access to the responsive information under section 57.49. Although some of the responsive information is subject to sections 552.117 and 552.137 of the Government Code, as a general rule, statutes governing the release of specific information prevail over general exceptions to public disclosure found in the Act. *See, e.g.,* Open Records Decision No. 613 at 4 (1993) (exceptions in Act cannot impinge on statutory

right of access to information), 451 (1986) (specific statutory access provisions overcome general exception to disclosure under the Act). Thus, because sections 552.117 and 552.137 are general exceptions under the Act, the requestor's statutory access under section 57.49 prevails and the board may not withhold the information at issue under section 552.117 or section 552.137. In that instance, the board must release the responsive information to the requestor pursuant to section 57.49.

In summary, if the board determines the release of the responsive information would be to assist the corporation in curing a delinquent loan or collecting on a defaulted loan, the board must release the responsive information to this requestor in its entirety pursuant to section 57.49 of the Education Code. If the board determines the release of the responsive information would not be to assist the corporation in curing a delinquent loan or collecting on a defaulted loan, the board must (1) withhold the information we have marked under section 552.117(a)(1) of the Government Code, (2) withhold the e-mail address we have marked under section 552.137 of the Government Code, unless the owner of the address affirmatively consents to its release, and (3) release the remaining responsive 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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](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,



Mili Gosar  
Assistant Attorney General  
Open Records Division

MG/akg

Ref: ID# 589029

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

