



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 17, 2016

Ms. Joey Moore
Counsel for the Elgin Independent School District
Walsh, Gallegos, Treviño, Russo & Kyle, P.C.
P.O. Box 2156
Austin, Texas 78768

OR2016-18616

Dear Ms. Moore:

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# 622848 (Ref. No. 622848).

The Elgin Independent School District (the "district"), which you represent, received a request for (1) conflicts of interest statements submitted by the superintendent or current members of the district's school board, (2) a copy of the superintendent's personnel file and calendar during a specified time period, and (3) any communications to or from the superintendent during a specified time period mentioning two keywords.¹ You state the district released some information. You also state the district will redact information subject to section 552.117 of the Government Code as permitted by section 552.024(c) of the

¹We note the requestor seeks some information beyond the date of the request. It is implicit in several provisions of the Act that the Act applies only to information already in existence. *See* Gov't Code §§ 552.002, .021, .227, .351. The Act does not require a governmental body to prepare new information in response to a request. *See* Attorney General Opinion H-90 (1973); *see also* Open Records Decision Nos. 572 at 1 (1990), 555 at 1-2 (1990), 452 at 2-3 (1986), 87 (1975). Consequently, a governmental body is not required to comply with a standing request to supply information prepared in the future. *See* Attorney General Opinion JM-48 at 2 (1983); *see also* Open Records Decision Nos. 476 at 1(1987), 465 at 1 (1987). Thus, the only information encompassed by the present request consists of information the district maintained or had a right of access to as of the date it received the request.

Government Code and pursuant to Open Records Decision No. 684 (2009).² You claim portions of the submitted information are excepted from disclosure under section 552.102 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

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). Upon review, we find the district must withhold the date of birth you have marked in Exhibit 3 under section 552.102(a) of the Government Code.

Section 552.102(b) of the Government Code excepts from public disclosure “a transcript from an institution of higher education maintained in the personnel file of a professional public school employee[.]” Gov’t Code § 552.102(b). This exception further provides, however, that “the degree obtained or the curriculum on a transcript in the personnel file of the employee” are not excepted from disclosure. *Id.*; *see also* Open Records Decision No. 526 (1989). Thus, with the exception of the employee’s name, courses taken, and degree obtained, which must be released, the district must withhold the submitted college transcripts in Exhibit 4 pursuant to section 552.102(b) of the Government Code.

In summary, the district must withhold the date of birth you have marked in Exhibit 3 under section 552.102(a) of the Government Code. With the exception of the employee’s name, courses taken, and degree obtained, which must be released, the district must withhold the submitted college transcripts in Exhibit 4 pursuant to section 552.102(b) of the Government Code. The remaining information 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.

²Section 552.117 of the Government Code excepts from disclosure the home addresses and telephone numbers, social security numbers, emergency contact information, and family member information of current or former officials or employees of a governmental body. *See* Gov’t Code § 552.117. Section 552.024 of the Government Code authorizes a governmental body to withhold information subject to section 552.117 without requesting a decision from this office if the employee or official or former employee or official chooses not to allow public access to the information. *See id.* § 552.024(c). Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain categories of information without the necessity of seeking a decision from this office.

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,

A handwritten signature in black ink that reads "Britni Ramirez". The signature is written in a cursive, flowing style.

Britni Ramirez
Assistant Attorney General
Open Records Division

BR/bhf

Ref: ID# 622848

Enc. Submitted documents

c: Requestor
(w/o enclosures)