



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 2, 2016

Mr. William B. McElhiney, III
Counsel for Spring Independent School District
Thompson & Horton LLP
3200 Southwest Freeway, Suite 200
Houston, Texas 77027-7554

OR2016-26763

Dear Mr. McElhiney:

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# 636298.

The Spring Independent School District (the "district"), which you represent, received a request for the personnel files of the requestor, including disciplinary records. You claim some of the submitted information is excepted from disclosure under sections 552.102, 552.117, and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note some of the submitted information, which we have marked, is not responsive to the instant request for information because it does not pertain to the requestor. This ruling does not address the public availability of any information that is not responsive to the request and the district is not required to release such information in response to this request.

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." *Id.* § 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). The submitted information includes the requestor's

date of birth. Because section 552.102 protects personal privacy, the requestor has a right of access to his date of birth under section 552.023 of the Government Code and it may not be withheld from him under section 552.102(a). *See* Gov't Code § 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Accordingly, the district must withhold the dates of birth you marked under section 552.102(a) of the Government Code.

You seek to withhold the social security numbers of district employees. We note section 552.147(a-1) of the Government Code provides, "[t]he social security number of an employee of a school district in the custody of the district is confidential." *Id.* § 552.147(a-1). Thus, section 552.147(a-1) makes the social security numbers of school district employees confidential, without such employees being required to first make a confidentiality election under section 552.024 of the Government Code. *Id.* § 552.024(a-1) (school district may not require employee or former employee of district to choose whether to allow public access to employee's or former employee's social security number). Reading sections 552.024(a-1) and 552.147(a-1) together, we conclude section 552.147(a-1) makes confidential the social security numbers of both current and former school district employees. However, we note section 552.147(a-1) protects personal privacy. As noted above, the requestor has a right of access to his private information under section 552.023 of the Government Code. Thus, the requestor's social security number may not be withheld from him under section 552.147(a-1). *See* Gov't Code § 552.023(a). Accordingly, the district must withhold the social security numbers you marked under section 552.147(a-1) of the Government Code.¹

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). *See* Gov't Code § 552.137(a)-(c). Section 552.137 does not apply to an institutional e-mail address, the general e-mail address of a business, an e-mail address of a person who has a contractual relationship with a governmental body, an e-mail address of a vendor who seeks to contract with a governmental body, an e-mail address maintained by a governmental entity for one of its officials or employees, or an e-mail address provided to a governmental body on a letterhead. *See id.* § 552.137(c). Upon review, we note you marked the personal e-mail address of a district employee. We note the e-mail in which the employee's e-mail address is marked pertains to the transaction of official district business. Accordingly, the district may not withhold the personal e-mail address you marked under section 552.137 of the Government Code. *See Austin Bulldog v. Leffingwell*, 490 S.W.3d 240 (Tex. App.—

¹As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

Austin 2016, no pet.) (holding personal e-mail addresses of government officials used to conduct official government business are not e-mail addresses of "members of the public" for purposes of Gov't Code § 552.137(a)).

In summary, the district must withhold the dates of birth you marked under section 552.102(a) of the Government Code. The district must withhold the social security numbers you marked under section 552.147(a-1) of the Government Code. The district must release the remaining responsive information to the requestor.²

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,



Kieran Hillis
Assistant Attorney General
Open Records Division

KH/akg

Ref: ID# 636298

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²We note that because the requestor has a special right of access to some of the information being released in this instance, the district must again seek a decision from this office if it receives another request for the same information from another requestor.