



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 7, 2017

Ms. Stacie S. White
Counsel for the City of Euless
Taylor, Olson, Adkins, Sralla, Elam, LLP
6000 Western Place, Suite 200
Fort Worth, Texas 76107

OR2017-04846

Dear Ms. White:

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# 648103.

The Euless Police Department (the "department"), which you represent, received a request from an investigator with the Texas Education Agency (the "TEA") for all offense, incident, and investigative reports pertaining to a named individual, including a specified offense. 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.

As noted above, the requestor is an investigator for the TEA, which has assumed the duties of the State Board for Educator Certification (the "SBEC").¹ The TEA is conducting an investigation of the named individual, and we understand the named individual either has applied for or currently holds educator credentials. Section 22.082 of the Education Code provides the SBEC "may obtain from any law enforcement or criminal justice agency all criminal history record information and all records contained in any closed criminal investigation file that relate to a specific applicant for or holder of a certificate." Educ. Code § 22.082. In this instance, the submitted information pertains to a concluded criminal

¹The 79th Texas Legislature passed House Bill 1116, which required the transfer of SBEC's administrative functions and services to the TEA, effective September 1, 2005.

investigation. Therefore, the TEA may obtain “all records contained” in the closed investigation file under section 22.082 of the Education Code. Accordingly, we find section 22.082 of the Education Code gives the TEA a statutory right of access to the submitted information. Although you seek to withhold this information under section 552.101 of the Government Code in conjunction with common-law privacy, we note a statutory right of access generally prevails over the common law. *See CenterPoint Energy Houston Elec. LLC v. Harris County Toll Rd. Auth.*, 436 F.3d 541, 544 (5th Cir. 2006) (common law controls only where there is no conflicting or controlling statutory law). Thus, we conclude the department must generally release the submitted information to this requestor.

We note, however, the submitted information contains information subject to section 552.130 of the Government Code, which provides information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See Gov’t Code § 552.130*. Section 552.130 contains its own access provisions. Therefore, we find section 552.130 is not a general exception under the Act. Accordingly, the motor vehicle record information we marked is generally confidential under section 552.130 of the Government Code.

Because the submitted information includes confidential information subject to section 552.130 of the Government Code, we must consider whether the requestor in this case, as a TEA investigator, may nevertheless obtain the submitted information. Section 22.082 of the Education Code authorizes the requestor to obtain the submitted information in its entirety, while section 552.130 of the Government Code excepts from disclosure portions of the submitted information; as such, we find section 22.082 of the Education Code is in conflict with section 552.130 of the Government Code. Where information falls within both a general and specific provision of law, the specific provision prevails over the general. *See Horizon/CMS Healthcare Corp. v. Auld*, 34 S.W.3d 887, 901 (Tex. 2000) (“more specific statute controls over the more general”); *Cuellar v. State*, 521 S.W.2d 277 (Tex. Crim. App. 1975) (under well-established rule of statutory construction, specific statutory provisions prevail over general ones); ORD 451. Although section 22.082 of the Education Code generally allows a TEA investigator access to files of a closed criminal investigation, section 552.130 of the Government Code specifically protects motor vehicle record information. This section specifically permits release to certain parties and in circumstances that do not include the TEA representative’s request in this instance. Therefore, we conclude, notwithstanding section 22.082 of the Education Code, the department must withhold the motor vehicle record information we marked under section 552.130 of the Government Code.

In summary, the department must withhold the information we marked under section 552.130 of the Government Code. The department must release the remaining information to this requestor pursuant to section 22.082 of the Education Code.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,



Emily Buchanan
Assistant Attorney General
Open Records Division

EB/eb

Ref: ID# 648103

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²Because the TEA has a right of access to certain information in the submitted documents that otherwise would be excepted from release under the Act, the department must again seek a decision from this office if it receives a request for this information from a different requestor without such a right of access.