



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

April 19, 2017

Mr. Bob Davis  
Open Records Coordinator  
The University of Texas at Austin  
P.O. Box 8179  
Austin, Texas 78713-8179

OR2017-08296

Dear Mr. Davis:

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# 653862 (UT Austin ORR No. 144946).

The University of Texas at Austin (the "university") received a request for information related to a specified report pertaining to the requestor. The university released information responsive to the request but withheld some information under section 552.024 of the Government Code without requesting a decision from this office.<sup>1</sup> See Gov't Code §§ 552.024(c)(2), .117(a)(1). Pursuant to section 552.024(c-1) of the Government Code, the requestor has asked this office to review the information and render a decision as to whether it is excepted from disclosure under section 552.117 of the Government Code. We have considered the university's position.

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<sup>1</sup>The university also informs us it redacted an e-mail address subject to section 552.137 of the Government Code pursuant to Open Records Decision No. 684 (2009), which serves as a previous determination for all governmental bodies authorizing them to withhold certain e-mail addresses subject to section 552.137 of the Government Code without requesting a decision from this office.

Initially, the requestor argues the university improperly withheld student-identifying information. The university informs us it withheld student-identifying information pursuant to the Family Educational Rights and Privacy Act (“FERPA”), section 1232g of title 20 of the United States Code. We note the United States Department of Education Family Policy Compliance Office has informed this office that FERPA does not permit state and local educational authorities to disclose to this office, without parental or an adult student’s consent, unredacted, personally identifiable information contained in education records for the purpose of our review in the open records ruling process under the Act.<sup>2</sup> Consequently, state and local educational authorities that receive a request for education records from a member of the public under the Act must not submit education records to this office in unredacted form, that is, in a form in which “personally identifiable information” is disclosed. *See* 34 C.F.R. § 99.3 (defining “personally identifiable information”). Because our office is prohibited from reviewing education records, we will not address the applicability of FERPA to any of the submitted information.

Section 552.117 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 officials or employees of a governmental body who request this information be kept confidential under section 552.024 of the Government Code. Gov’t Code § 552.117(a)(1). Whether a particular piece of information is protected by section 552.117 must be determined at the time the request for it is made. *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 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. We note the university informs this office the individual whose personal information is at issue elected to keep such information confidential. Accordingly, the university must withhold the personal information it marked under section 552.117(a)(1) of the Government Code.

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

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<sup>2</sup>A copy of this letter may be found on the Office of the Attorney General’s website at <https://www.texasattorneygeneral.gov/files/og/20060725usdoe.pdf>.

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, appearing to read 'Joseph Behnke', written in a cursive style.

Joseph Behnke  
Assistant Attorney General  
Open Records Division

JB/som

Ref: ID# 653862

Enc. Submitted documents

c: Requestor  
(w/o enclosures)