



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

November 21, 2017

Ms. Cynthia Tynan  
Senior Attorney & Public Information Coordinator  
The University of Texas System  
210 West 7th Street  
Austin, Texas 78701-2901

OR2017-26638

Dear Ms. Tynan:

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# 685188 (UT OGC# 177234).

The University of Texas at San Antonio (the "university") received a request for the personnel file of a named individual, including her resignation letter. The university informs us it will release some information to the requestor. The university states it will redact information subject to section 552.117 of the Government Code as permitted by section 552.024(c) of the Government Code.<sup>1</sup> The university also states it will redact information pursuant to section 552.0038(c) of the Government Code, motor vehicle record information pursuant to section 552.130(c) of the Government Code, and certain employees'

---

<sup>1</sup>Section 552.117 of the Government Code exempts from disclosure the home addresses and telephone numbers, emergency contact information, social security numbers, and family member information of current or former officials or employees of a governmental body. *See* Gov't Code § 552.117(a)(1). 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 current or former employee or official chooses not to allow public access to the information. *See id.* § 552.024(c).

dates of birth pursuant to Open Records Letter No. 2016-05776 (2016).<sup>2</sup> The university further states it will redact certain information pursuant to Open Records Decision No. 684 (2009).<sup>3</sup> The university claims some of the submitted information is not subject to the Act. Additionally, the university claims some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception and reviewed the submitted representative sample of information.<sup>4</sup>

Initially, the university asserts the University of Texas Electronic Identification Number (“UTEID”) contained in the submitted documents is not subject to the Act. The Act applies only to “public information.” *See* Gov’t Code § 552.021. Section 552.002(a) defines “public information” as:

[I]nformation that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

- (1) by a governmental body;
- (2) for a governmental body and the governmental body:
  - (A) owns the information;
  - (B) has a right of access to the information; or

---

<sup>2</sup>Section 552.0038(c) of the Government Code provides that a governmental entity that maintains records of a participant in a retirement system’s retirement program in cooperation with or on behalf of a retirement system is not required to accept or comply with a request for such information or to seek an opinion from the attorney general because the records are exempt from the provisions of the Act. *See* Gov’t Code § 552.0038(c). Section 552.130(c) of the Government Code allows a governmental body to redact the information described in section 552.130(a) without the necessity of seeking a decision from the attorney general. *See id.* § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). Open Records Letter No. 2016-05776 authorizes the university to withhold the dates of birth of current and former university employees when the dates of birth are held in an employment context under section 552.102 of the Government Code without requesting a decision from this office.

<sup>3</sup>Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including personal e-mail addresses under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision. *See* ORD 684.

<sup>4</sup>We assume the “representative sample” of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

(C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or

(3) by an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business of the governmental body.

*Id.* § 552.002(a). In Open Records Decision No. 581 (1990), this office determined certain computer information, such as source codes, documentation information, and other computer programming, that has no significance other than its use as a tool for the maintenance, manipulation, or protection of public property is not the kind of information made public under section 552.021 of the Government Code. The university informs our office that when combined with an individual's password, a UTEID serves as the required log-on protocol to access the computer mainframe, which is the university's centralized hub that runs all its high-level electronic functions. The university indicates the UTEID is used solely to access the university's computer mainframe and it has no other significance other than its use as tool for the maintenance, manipulation, or protection of public information. Based on the university's representations and our review, we find the UTEID contained in the submitted documents does not constitute public information under section 552.002 of the Government Code. Therefore, we conclude the UTEID is not subject to the Act and the university is not required to release it to the requestor.

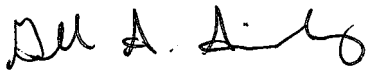
Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. This office has found personal financial information not relating to a financial transaction between an individual and a governmental body is generally highly intimate or embarrassing. *See* Open Records Decision Nos. 523 (1989) (common-law privacy protects credit reports, financial statements, and other personal financial information), 373 (1983) (sources of income not related to financial transaction between individual and governmental body protected under common-law privacy). Upon review, we find the information the university marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Therefore, the university must withhold the information it marked under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, the UTEID is not subject to the Act and the university is not required to release it to the requestor. The university must withhold the information it marked under section 552.101 of the Government Code in conjunction with common-law privacy. The university must release the remaining 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,



Gerald A. Arismendez  
Assistant Attorney General  
Open Records Division

GAA/tdw

Ref: ID# 685188

Enc. Submitted documents

c: Requestor  
(w/o enclosures)