



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 6, 2017

Ms. Elizabeth D. Nelson
Counsel for the Hurst-Eules-Bedford Independent School District
Walsh Gallegos Treviño Russo & Kyle, P.C.
P.O. Box 168046
Irving, Texas 75016

OR2017-27632

Dear Ms. Nelson:

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# 687982.

The Hurst-Eules-Bedford Independent School District (the "district") which you represent, received several requests for information related to the requestor's child. You state the majority of the requested information has been released to the requestor with certain redactions made in accordance with Open Records Letter Nos. 2017-03593 (2017) and 2017-20586 (2017), and the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g(a). *See* Gov't Code §§ 552.026 (incorporating FERPA into the Act), .114 (excepting from disclosure "student records"); Open Records Decision No. 539 (1990) (determining the same analysis applies under section 552.114 of the Government Code and FERPA).¹ You further state the district released additional information to the requestor, but made redactions as permitted by sections 552.024 and 552.136 of the Government Code without requesting a decision from this office with

¹The United States Department of Education Family Policy Compliance Office (the "DOE") has informed this office 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. The DOE has determined FERPA determinations must be made by the educational authority in possession of the educational records. We have posted a copy of the letter from the DOE on the Attorney General's website at <https://www.texasattorneygeneral.gov/files/og/20060725usdoe.pdf>.

regard to that information. *See* Gov't Code §§ 552.024(c)(2), .117(a)(1), .136(c). Pursuant to sections 552.024(c-1) and 552.136(d), the requestor has asked this office to review the information redacted by the district under sections 552.024(c)(2) and 552.136(c) and render a decision as to whether it is excepted from disclosure under sections 552.117 and 552.136(b) of the Government Code. We have considered the district's position and reviewed the submitted information.

Section 552.117(a)(1) of the Government Code excepts 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 who request that this information be kept confidential under section 552.024 of the Government Code, except as provided by section 552.024(a-1). Gov't Code §§ 552.117(a)(1), .024. Section 552.024(a-1) of the Government Code provides, "A school district may not require an employee or former employee of the district to choose whether to allow public access to the employee's or former employee's social security number." *Id.* § 552.024(a-1). Thus, a school district may only withhold under section 552.117 the home address and telephone number, emergency contact information, and family member information of a current or former employee or official of the district who requests this information be kept confidential under section 552.024. 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). Section 552.117(a)(1) also applies to the personal cellular telephone number of a current or former official or employee of a governmental body, provided the cellular telephone service is not paid by a governmental body. *See* Open Records Decision No. 506 at 5-6 (1988). 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. You state the individuals whose personal information is at issue elected to keep such information confidential. You further state public funds are not used to pay for the cellular telephone service related to the cellular telephone number at issue. Accordingly, the district must withhold the information you have marked under section 552.117(a)(1) of the Government Code.

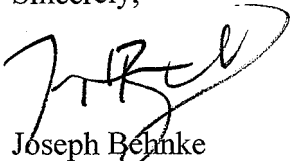
Section 552.136(b) of the Government Code provides, "[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." Gov't Code § 552.136(b). Accordingly, the district must withhold the information you have marked under section 552.136 of the Government Code.

In summary, the district must withhold the information you have marked under section 552.117 of the Government Code and the information you have marked under section 552.136 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, 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,



Joseph Behnke
Assistant Attorney General
Open Records Division

JB/som

Ref: ID# 687982

Enc. Submitted documents

c: Requestor
(w/o enclosures)