



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 21, 2019

Ms. Marlene E. Wyatt
Counsel for the Greenwood Independent School District
Eichelbaum Wardell Hansen Powell & Mehl, PC
4201 West Parmer Lane, Suite A-100
Austin, Texas 78727

OR2019-13486

Dear Ms. Wyatt:

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# 764894.

The Greenwood Independent School District (the "district"), which you represent, received a request for information related to applicants for a specified district position. You claim portions of the submitted information are excepted from disclosure under sections 552.101 and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

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. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). Under the common-law right of privacy, an individual has a right to be free from the publicizing of private affairs in which the public has no legitimate concern. *Id.* at 682. The Third Court of Appeals has concluded public citizens' dates of birth are protected by common-law privacy pursuant to section 552.101. *See Paxton v. City of Dallas*, No. 03-13-00546-CV, 2015 WL 3394061, at *3 (Tex. App.—Austin May 22, 2015, pet. denied) (mem. op.). Thus, the district must withhold the public citizen's date of birth you marked under section 552.101 of the Government Code in conjunction with common-law privacy.

¹We 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.

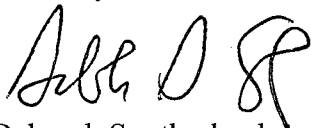
Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). See Gov’t Code § 552.137(a)-(c). We note section 552.137 is not applicable to an e-mail address that a governmental entity maintains for one of its officials or employees. You marked e-mail addresses the district seeks to withhold under section 552.137. Upon review, we find some of the e-mail addresses you marked are maintained by governmental entities for their employees. These e-mail addresses, which we marked for release, may not be withheld under section 552.137 of the Government Code. The remaining e-mail addresses at issue are not excluded by subsection (c). Therefore, with the exception of the e-mail addresses we marked for release, the district must withhold the personal e-mail addresses you marked under section 552.137 of the Government Code, unless the owners affirmatively consent to their public disclosure.

In summary, the district must withhold the public citizen’s date of birth you marked under section 552.101 of the Government Code in conjunction with common-law privacy. With the exception of the e-mail addresses we marked for release, the district must withhold the personal e-mail addresses you marked under section 552.137 of the Government Code, unless the owners affirmatively consent to their public disclosure. The district 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, 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,



Deborah Southerland
Attorney
Open Records Division

DS/eb

Ref: ID# 764894

Enc. Submitted documents

c: Requestor
(w/o enclosures)