



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 3, 2019

Mr. Jonathan T. Koury  
Assistant City Attorney  
City of Bryan  
P. O. Box 1000  
Bryan, Texas 77805

OR2019-14526

Dear Mr. Koury:

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# 768445.

The Bryan Police Department (the "department") received a request for information pertaining to a specified incident. The department claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception the department claims and reviewed the submitted information.

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 section 261.201 of the Family Code, which provides, in relevant part:

(a) [T]he following information is confidential, is not subject to public release under [the Act] and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). Upon review, we find the submitted information was used or developed in an investigation of alleged or suspected child abuse or neglect. *See id.* §§ 101.003(a) (defining “child” for purposes of this section as person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes), 261.001(1), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code). Accordingly, the information is within the scope of section 261.201 of the Family Code. The department does not indicate it has adopted a rule that governs the release of this type of information. Therefore, we assume no such regulation exists. Given that assumption, we conclude the submitted information is generally confidential pursuant to section 261.201(a) of the Family Code.

However, section 261.201 of the Family Code also provides information encompassed by subsection (a) may be disclosed “for purposes consistent with [the Family Code] and applicable federal or state law.” *Id.* § 261.201(a). In this instance, section 22.082 of the Education Code constitutes applicable state law. We note the requestor is an investigator with the Texas Education Agency (the “TEA”), which has assumed the duties of the State Board for Educator Certification (the “SBEC”).<sup>1</sup> The TEA states it is conducting an investigation of an individual who has applied for or currently holds educator credentials. Section 22.082 provides the TEA “may obtain from any law enforcement or criminal justice agency all criminal history record information [(“CHRI”)] and all records contained in any closed criminal investigation file that relate to a specific applicant for or holder of a certificate issued under Subchapter B, Chapter 21 [of the Education Code].” Educ. Code § 22.082. The submitted documents reflect the criminal investigation at issue is closed. Therefore, we find section 22.082 of the Education Code gives the TEA a statutory right of access to the submitted information in its entirety. *See id.*

As previously noted, section 261.201(a) states the release must also be “for purposes consistent with the Family Code.” *See* Fam. Code § 261.201(a). Consequently, if the department determines release of the information at issue is not for purposes consistent with the Family Code, then the department must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. *See id.* § 261.201(b)-(g), (i), (k) (listing circumstances under which section 261.201 information can be released). However, if the department determines release of the information at issue is for purposes consistent with the Family Code, then the department

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<sup>1</sup>The 79th Texas legislature passed House Bill 1116, which required the transfer of the SBEC’s administrative functions and services to the TEA, effective September 1, 2005.

must generally release the submitted information in its entirety to the requestor pursuant to section 22.082 of the Education Code.

However, we note some of the submitted information is 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.<sup>2</sup> See Gov't Code § 552.130. Section 552.130 specifically protects motor vehicle record information and contains its own access provisions. Although we note a specific statutory right of access overcomes general exceptions to disclosure in the Act, we find section 552.130 is not a general exception under the Act. See Open Records Decision Nos. 613 at 4 (1993) (exceptions in Act cannot impinge in statutory right of access to information), 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the Act). Accordingly, the motor vehicle record information we have marked is confidential under section 552.130 of the Government Code.

Because section 22.082 of the Education Code authorizes the requestor to obtain the submitted information in its entirety and section 552.130 of the Government Code excepts from disclosure portions of the submitted information, we find this provision is in conflict with the access provided under section 22.082 of the Education 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. Therefore, to the extent the requestor has access to the information at issue under section 22.082 of the Government Code, we conclude the department must withhold the information we marked under section 552.130 of the Government Code, but must release the remaining information pursuant to section 22.082 of the Education Code.

In summary, if the department determines release of the information at issue is not for purposes consistent with the Family Code, then the department must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. If the department determines the release of the information at issue is for purposes consistent with the Family Code, then the department must withhold the information we marked under section 552.130 of the Government Code and must release the remaining information to the requestor pursuant to section 22.082 of the Education Code.

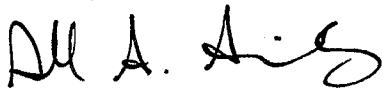
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<sup>2</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. See Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987).

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,

A handwritten signature in black ink, appearing to read "Gerald A. Arismendez".

Gerald A. Arismendez  
Assistant Attorney General  
Open Records Division

GAA/jxd

Ref: ID# 768445

Enc. Submitted documents

c: Requestor  
(w/o enclosures)