



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 9, 2019

Ms. Kristi Godden
Counsel for the Edinburg Consolidated Independent School District
O'hannon, Demerath & Castillo
808 West Avenue
Austin, Texas 78701-2208

OR2019-18488

Dear Ms. Godden:

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# 774093 (ORR# E000901-041619).

The Edinburg Consolidated Independent School District (the "district"), which you represent, received a request for all personnel records of a named individual. We understand the district is withholding motor vehicle record information pursuant to section 552.130(c) of the Government Code and certain information pursuant to Open Records Decision No. 684 (2009).¹ You claim portions of the submitted information are excepted from disclosure under sections 552.102, 552.117 and 552.147 of the Government Code.² We have considered the claimed exceptions and reviewed the submitted information.

Section 552.102(a) of the Government Code excepts from disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Gov't Code § 552.102(a). The Texas Supreme Court held section 552.102(a) excepts from disclosure the dates of birth of state employees in the payroll

¹Section 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* Gov't Code § 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 Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain information, including personal e-mail addresses under section 552.137 of the Government Code, as well as I-9 forms under section 552.101 of the Government Code in conjunction with section 1324a of title 8 of the United States Code, without the necessity of requesting an attorney general decision. *See* ORD 684.

²Although the district does not raise sections 552.117 and 552.147 of the Government Code in its brief, we understand you to raise these exceptions based on your markings.

database of the Texas Comptroller of Public Accounts. *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex.*, 354 S.W.3d 336 (Tex. 2010). Thus, under *Texas Comptroller*, section 552.102(a) is applicable to the birth date of an employee of a governmental body in a record maintained by his or her employer in an employment context. Accordingly, the district must withhold the employee's date of birth you marked under section 552.102(a) of the Government Code.

Section 552.102(b) of the Government Code excepts from public disclosure "a transcript from an institution of higher education maintained in the personnel file of a professional public school employee[.]" Gov't Code § 552.102(b). However, section 552.102(b) does not except from public disclosure the employee's name, "the degree obtained[,] or the curriculum on a transcript in the personnel file of the employee." *Id.*; *see also* Open Records Decision No. 526 (1989). Accordingly, with the exception of the employee's name, courses taken, and degrees obtained, the district must withhold the submitted college transcripts, which we marked, pursuant to section 552.102(b) of the Government Code. However, upon review, we find you failed to demonstrate the applicability of section 552.102(b) of the Government Code to the remaining information at issue, and the district may not withhold it on that basis.

Section 552.117(a)(1) of the Government Code excepts from disclosure the home address and telephone number, emergency contact information, social security number, and family member information of a current or former employee or official of a governmental body who requests this information be kept confidential who requests this information be kept confidential under section 552.024 of the Government Code, except as provided by section 552.024(a-1). *See* 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, the 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 item of information is protected by section 552.117(a)(1) must be determined at the time of the governmental body's receipt of the request for the information. *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 or official 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. Information may not be withheld under section 552.117(a)(1) on behalf of a current or former employee or official who did not timely request under section 552.024 the information be kept confidential. Therefore, to the extent the employee whose information is at issue timely requested confidentiality under section 552.024 of the Government Code, except for the information we marked for release, the district must withhold the information you marked, and the additional information we marked to withhold, under section 552.117(a)(1) of the Government Code. However, we conclude section 552.117(a)(1) of the Government Code is not applicable to the remaining information at issue, and the district may not withhold it on that basis.

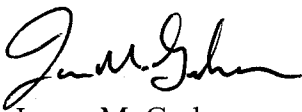
Section 552.147(a-1) of the Government Code provides, “[t]he social security number of an employee of a school district in the custody of the district is confidential.” See Gov’t Code § 552.147(a-1). Thus, section 552.147(a-1) makes the social security numbers of school district employees confidential, without such employees being required to first make a confidentiality election under section 552.024 of the Government Code. *Id.* § 552.024(a-1) (school district may not require employee or former employee of district to choose whether to allow public access to employee’s or former employee’s social security number). Reading sections 552.024(a-1) and 552.147(a-1) together, we conclude section 552.147(a-1) makes confidential the social security numbers of both current and former school district employees. Accordingly, the district must withhold the social security number you marked and we marked under section 552.147(a-1) of the Government Code.

In summary, the district must withhold the employee’s date of birth you marked under section 552.102(a) of the Government Code. With the exception of the employee’s name, courses taken, and degrees obtained, the district must withhold the submitted college transcripts we marked pursuant to section 552.102(b) of the Government Code. To the extent the employee whose information is at issue timely requested confidentiality under section 552.024 of the Government Code, except for the information we marked for release, the district must withhold the information you marked and we marked to withhold under section 552.117(a)(1) of the Government Code. The district must withhold the social security number you marked and we marked under section 552.147(a-1) of the Government Code. 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,



James M. Graham
Assistant Attorney General
Open Records Division

JMG/jxd

Ref: ID# 774093

Enc. Submitted documents

c: Requestor
(w/o enclosures)