



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 11, 2019

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

OR2019-25498

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# 785120 (ORR# 191106).

The University of Texas at Dallas (the "university") received a request for information pertaining to specified types of investigations.<sup>1</sup> The university states it is redacting some information pursuant to the Family Educational Rights and Privacy Act ("FERPA"), section 1232g of title 20 of the United States Code.<sup>2</sup> The university also states it will withhold information pursuant to section 552.130(c) of the Government Code and Open Records

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<sup>1</sup>The university sought and received clarification of the information requested. *See* Gov't Code § 552.222 (if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (if governmental entity, acting in good faith, requests clarification of unclear or over-broad request, ten-day period to request attorney general ruling is measured from date request is clarified).

<sup>2</sup>The 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 consent, 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 education records. We have posted a copy of the letter from the DOE to this office on the Attorney General's website: <https://www.texasattorneygeneral.gov/sites/default/files/files/divisions/open-government/20060725-USDOE-FERPA.pdf>.

Decision No. 684 (2009) and Open Records Letter No. 2016-04401 (2016).<sup>3</sup> The university informs us it has released some of the requested information, but claims some of the submitted information is either not subject to the Act or excepted from disclosure under section 552.101 of the Government Code. We have considered the submitted arguments and reviewed the submitted information.

The university asserts the submitted student identification numbers are not subject to the Act. In Open Records Decision No. 581 (1990), this office determined that 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 us these computer-generated numbers provides administrative access to the its computer system. Based on these representations, we agree the submitted student identification numbers do not constitute public information under section 552.002 of the Government Code. Accordingly, these identification numbers are not subject to the Act and the university is not required to release them.

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 the *Industrial Foundation* decision. *Id.* at 683. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). However, this office has also found the public has a legitimate public interest in the details of a crime. *See* Open Records Decision No. 400 at 4 (1983). *See generally* *Lowe v. Hearst Communications, Inc.*, 487 F.3d 246, 250 (5th Cir. 2007) (noting “legitimate public interest in facts tending to support an allegation of criminal activity” (citing *Cinel v. Connick*, 15 F.3d 1338, 1345-46 (1994))). Upon review, we find some of the submitted information, which we have marked, satisfies the standard articulated by the Texas Supreme Court in the *Industrial Foundation* decision. Accordingly, the university must withhold the

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<sup>3</sup>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* 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 categories of information, including an e-mail address of a member of the public under section 552.137 of the Government Code, without the necessity of seeking a decision from this office. Open Records Letter No. 2016-04401 authorizes the university to withhold dates of birth of members of the public under section 552.101 of the Government Code in conjunction with common-law privacy without the necessity of requesting an attorney general’s decision. *See* Gov’t Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001).


information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, the remaining information is not confidential under common-law privacy, and the university may not withhold it under section 552.101 on that ground.

In summary, the submitted student identification numbers are not subject to the Act and the university is not required to release them. The university must withhold the information we have 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/gw

Ref: ID# 785120

Enc. Submitted documents

c: Requestor  
(w/o enclosures)