



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 2, 2020

Mr. Renaldo Stowers
Senior Associate General Counsel
University of North Texas System
1155 Union Circle #310907
Denton, Texas 76203

OR2020-16834

Dear Mr. Stowers:

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# 834441 (ORR# 7694).

The University of North Texas (the "university") received a request for information pertaining to a named employee. The university claims some of the submitted information is excepted from disclosure under sections 552.102 and 552.117 of the Government Code.¹ We have considered the claimed exceptions and reviewed the submitted information.

Initially, we note it appears the university only submitted a portion of the requested information. We assume, to the extent any additional responsive information existed when the university received the request for information, the university has released it. If not, then the university must do so immediately. *See* Gov't Code §§ 552.006, .301, .302; Open Records Decision No. 664 (2000).

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 has held section 552.102(a) excepts from disclosure the dates of birth of state employees in the payroll 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). The university must withhold the submitted date of birth under section 552.102(a) of the Government Code.

¹ We understand the university to raise section 552.117 based on its markings.

Section 552.117(a)(1) of the Government Code may be applicable to some of the submitted information. Section 552.117(a)(1) 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. Gov't Code § 552.117(a)(1). Whether information is protected by section 552.117(a)(1) must be determined at the time the request for it is made. *See* Open Records Decision No. 530 at 5 (1989). Therefore, the university may only withhold information under section 552.117(a)(1) on behalf of current or former employees who made a request for confidentiality under section 552.024 prior to the date on which the request for this information was made. Such information may not be withheld for individuals who did not make a timely election. The university must withhold the information we have marked under section 552.117(a)(1) of the Government Code if the employee at issue timely elected to withhold that information.² However, the university may not withhold this information under section 552.117(a)(1) if the employee did not timely elect to withhold it. Section 552.117 is not applicable to the remaining information and the university may not withhold any of it on that ground.

In summary, the university must withhold the submitted date of birth under section 552.102(a) of the Government Code. The university must also withhold the information we have marked under section 552.117(a)(1) of the Government Code if the employee at issue timely elected to withhold that information. 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/jlbn

² Regardless of the applicability of section 552.117, section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147(b).

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Enc. Submitted documents

c: Requestor
(w/o enclosures)