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ATTORNEY GENERAL OF TEXAS

December 15, 2020

Mr. Trevor Hall
Counsel for the Cumby Independent School District
Powell Youngblood & Taylor LLP
108 Wild Basin Road, Suite 100
Austin, Texas 78746

OR2020-31284

Dear Mr. Hall:

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# 857057.

The Cumby Independent School District (the "district"), which you represent, received a request for information pertaining to two named individuals. The district indicates it will withhold information pursuant to Open Records Decision No. 684 (2009).¹ The district claims some of the submitted information is excepted from disclosure under sections 552.102, 552.117, 552.130, 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 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 district must withhold the submitted dates of birth under section 552.102(a) of the Government Code.

¹ 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.

² We understand the district to raise sections 552.117 and 552.130 based on its markings.

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.” 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 submitted social security numbers under section 552.147(a-1) of the Government Code.

Section 552.117(a)(1) of the Government Code 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. *Id.* § 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 district 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 district must withhold the information we have marked under section 552.117(a)(1) of the Government Code if the employees at issue timely elected to withhold that information. However, section 552.117 is not applicable to the remaining information and the district may not withhold it on that ground.

Section 552.130 of the Government Code 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. *See* Gov’t Code § 552.130. The district must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

In summary, the district must withhold the following: (1) the submitted dates of birth under section 552.102(a) of the Government Code; (2) the submitted social security numbers under section 552.147(a-1) of the Government Code; (3) the information we have marked under section 552.117(a)(1) of the Government Code if the employees at issue timely elected to withhold that information; and (4) the information we have marked under section 552.130 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 <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/rm

Ref: ID# 857057

Enc. Submitted documents

c: Requestor
(w/o enclosures)