



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 8, 2022

Ms. Maria Miller  
Public Information Officer  
Dallas College  
1601 South Botham Jean Boulevard  
Dallas, Texas 75215

OR2022-03595

Dear Ms. Miller:

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# 929053.

Dallas College (the “college”) received a request for certain information pertaining to a specified entity, including all proposals submitted pertaining to a specified bid solicitation.<sup>1</sup> You state the college has released some information to the requestor. Although you take no position regarding whether the submitted information is excepted from disclosure, you state release of the information at issue may implicate the proprietary interests of the following third parties: Akademos; Barnes & Noble College; Blackboard; Follett Higher Education Group, Inc.; and Neebo. Accordingly, you state, and provide documentation demonstrating, the college notified these interested third parties of the request for information and of their right to submit arguments to this office as to why the submitted information should not be released.<sup>2</sup> *See* Gov’t Code § 552.305(d); *see also* Open Records

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<sup>1</sup> You state, and provide documentation demonstrating, the college sought and received clarification of the information requested. *See* Gov’t Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

<sup>2</sup> We note, in a letter dated January 27, 2022, we asked the college to provide additional information pursuant to section 552.303 of the Government Code. *See* Gov’t Code § 552.303(c)-(d) (if attorney general determines that information in addition to that required by section 552.301 is necessary to render decision, written notice of that fact shall be given to governmental body and requestor, and governmental body shall submit necessary additional information to attorney general not later than seventh calendar day after date of receipt of notice). In response, the college informed us it would not submit additional comments.

Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have reviewed the submitted information.

Initially, we note one of the proposals submitted by the college contains redactions. Pursuant to section 552.301 of the Government Code, a governmental body that seeks to withhold requested information must submit to this office a copy of the information, labeled to indicate which exceptions apply to which parts of the copy, unless the governmental body has received a previous determination for the information at issue. *See Gov't Code* § 552.301(a), (e)(1)(D). You do not assert, nor does our review of the records indicate, the college has been authorized to withhold this information without seeking a ruling from this office. *See id.* § 552.301(a); Open Records Decision No. 673 (2001). As such, information must be submitted in a manner that enables this office to determine whether the information comes within the scope of an exception to disclosure. In this instance, we can discern the nature of some of the redacted information; thus, being deprived of this information does not inhibit our ability to make a ruling with respect to this information. However, we are unable to discern the nature of the remaining redacted information. Consequently, the college has failed to comply with section 552.301 of the Government Code with respect to this information, which we have marked, and it is presumed public under section 552.302 of the Government Code. Accordingly, the college must release redacted information we have marked pursuant to section 552.302 of the Government Code.

Next, we note an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See Gov't Code* § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from any of the third parties explaining why the information at issue should not be released. Thus, we have no basis to conclude any of the third parties have a protected proprietary interest in the information at issue. *See, e.g., id.* § 552.110 (requiring the provision of specific factual evidence demonstrating the applicability of the exception). Therefore, the college may not withhold any portion of the remaining information on the basis of any proprietary interest the third parties may have in it.

Section 552.136(b) of the Government Code provides, “[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a government body is confidential.”<sup>3</sup> *Id.* § 552.136(b); *see id.* § 552.136(a) (defining “access device”). This office has determined an insurance policy number is an access device number for purposes of this exception. *See* Open Records Decision No. 684 at 9 (2009). We note the information at issue contains partial credit card numbers; however, upon review, we are unable to determine whether this information pertains to actual living individuals or fictitious individuals. Thus, we must rule conditionally with respect to this information. Accordingly, the college must withhold the insurance policy numbers within the remaining information and, to the extent the

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<sup>3</sup> The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

information at issue pertains to a real, living individual, all partial credit card numbers under section 552.136 of the Government Code.

We note some of the remaining information appears to be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; see Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit.

In summary, the college must release the redacted information we have marked pursuant to section 552.302 of the Government Code. The college must withhold the insurance policy numbers within the remaining information and, to the extent the information at issue pertains to a real, living individual, all partial credit card numbers under section 552.136 of the Government Code. The college must release the remaining information; however, any information subject to copyright may only be released in accordance with copyright law.

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,

Blake Brennan  
Assistant Attorney General  
Open Records Division

BBX/ba

Ref: ID# 929053

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

c: 5 Third Parties  
(w/o enclosures)