



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 22, 2022

Ms. Susan Tennyson
DFPS Open Government Attorney
Texas Department of Family and Protective Services
P.O. Box 149030
Austin, Texas 78714-9030

OR2022-08189

Dear Ms. Tennyson:

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# 938379 (ORR# R001964).

The Texas Department of Family and Protective Services (the "department") received a request for the requestor's last three pay stubs. The department claims the submitted information is excepted from disclosure under sections 552.101 and 552.117 of the Government Code. We have considered the claimed exceptions and reviewed the submitted representative sample of information.¹

Section 552.023 of the Government Code provides a governmental body may not deny access to a person or a person's representative to whom the information relates on the grounds that the information is considered confidential under privacy principles. Gov't Code § 552.023(a); *see* Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). We note section 552.117 of the Government Code protect personal privacy. Thus, the requestor has a right of access to her private information pursuant to section 552.023 of the Government

¹ We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

Code, and the department may not withhold information pertaining to her under section 552.101 of the Government Code in conjunction with common-law privacy or section 552.117. of the Government Code Accordingly, the department must release the submitted information.²

The department also asks this office to issue a previous determination permitting it to withhold the types of information it indicated under section 552.101 of the Government Code in conjunction with common-law privacy and section 552.117(a)(16) of the Government Code without requesting a ruling from this office. *See* Gov't Code § 552.301(a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001). However, we decline to do so at this time.³ Accordingly, this letter ruling is limited to the particular records 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 records 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/jxd

² Because the requestor has a special right of access to some of the information being released, the department must again seek a decision from this office if it receives a request for the same information from another requestor.

³ We note section 552.024(c)(2) of the Government Code authorizes a governmental body to redact information protected by section 552.117(a)(16) of the Government Code without the necessity of requesting a decision under the Act if the current or former employee or official to whom the information pertains timely chooses not to allow public access to the information. *See* Gov't Code § 552.024(c)(2). If a governmental body redacts such information, it must notify the requestor in accordance with subsections 552.024(c-1) and (c-2). *See id.* § 552.024(c)(1)-(c)(2).

Ms. Susan Tennyson - Page 3

Ref: ID# 938379

Enc. Submitted documents

c: Requestor
(w/o enclosures)