



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 29, 2022

Mr. Trevor Hall  
Counsel for Flatonia Independent School District  
Powell Law Group  
108 Wild Basin Road, Building 2, Suite 100  
Austin, Texas 78746

OR2022-12289

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# 942060.

The Flatonia Independent School District (the "district"), which you represent, received a request for nine categories of information about district employees. You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.117 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the requestor only seeks the following information about each district employee: name, address, phone number, campus, start date with the district, type of position, date of birth, salary, and years of service with the Teacher's Retirement System. Thus, the remaining portions of the submitted information are not responsive to the instant request because they do not consist of the requested information. The district need not release non-responsive information in response to this request, and this ruling will not address that information.

We note the responsive information includes information that is excepted from disclosure under section 552.102(a) of the Government Code.<sup>1</sup> Section 552.102(a) excepts from disclosure "information in a personnel file, the disclosure of which would constitute a

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<sup>1</sup> The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

clearly unwarranted invasion of personal privacy.” Gov’t Code § 552.102(a). The Texas Supreme Court held section 552.102(a) exempts 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, 348 (Tex. 2010). Upon review, we find the district must withhold the submitted employees’ dates of birth under section 552.102(a) of the Government Code.<sup>1</sup>

Section 552.117(a)(1) of the Government Code exempts from disclosure the home address and telephone number, emergency contact information, social security number, and family member information of a current or former employee or official of a governmental body who requests this information be kept confidential under section 552.024 of the Government Code, except as provided by section 552.024(a-1). *See* Gov’t Code §§ 552.117(a)(1), .024. Section 552.024(a-1) of the Government Code provides, “[A] school district may not require an employee or former employee of the district to choose whether to allow public access to the employee’s or former employee’s social security number.” *Id.* § 552.024(a-1). Thus, the district may only withhold under section 552.117 the home address and telephone number, emergency contact information, and family member information of a current or former employee or official of the district who requests this information be kept confidential under section 552.024. Whether a particular item of information is protected by section 552.117(a)(1) must be determined at the time of the governmental body’s receipt of the request for the information. *See* Open Records Decision No. 530 at 5 (1989). Thus, information may only be withheld under section 552.117(a)(1) on behalf of a current or former employee who made a request for confidentiality under section 552.024 prior to the date of the governmental body’s receipt of the request for the information. However, we note an individual’s personal post office box is not a “home address” for purposes of section 552.117. *See* Open Records Decision No. 662 at 6 (1994). Consequently, the submitted post office boxes are not home addresses and may not be withheld under section 552.117(a)(1). Accordingly, if the employees whose personal information is at issue timely elected to keep their information confidential pursuant to section 552.024 of the Government Code, then with the exception of the submitted post office boxes, the district must withhold the employees’ home addresses and personal phone numbers under section 552.117(a)(1) of the Government Code; however, any cellular telephone numbers may only be withheld if a governmental body does not pay for the cellular telephone service. Conversely, to the extent the individuals at issue did not timely request confidentiality under section 552.024, the district may not withhold the information at issue under section 552.117(a)(1).

In summary, the district must withhold the submitted employees’ dates of birth under section 552.102(a) of the Government Code. If the employees whose personal information is at issue timely elected to keep their information confidential pursuant to section 552.024 of the Government Code, then with the exception of the submitted post office boxes, the district must withhold the employees’ home addresses and personal phone numbers under section 552.117(a)(1) of the Government Code; however, any cellular telephone numbers may only be withheld if a governmental body does not pay for the cellular telephone service. The district must release the remaining responsive information.

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<sup>1</sup> As our ruling on this information is dispositive, we need not address your argument against its disclosure.

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,

Jennifer Copeland  
Assistant Attorney General  
Open Records Division

JC/eb

Ref: ID# 942060

c: Requestor