



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 7, 2022

Mr. Mike Leasor  
Counsel for the Duncanville Independent School District  
Leasor Crass, P.C.  
302 West Broad Street  
Mansfield, Texas 76063

OR2022-16318

Dear Mr. Leasor:

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# 952286.

The Duncanville Independent School District (the "district"), which you represent, received a request for information pertaining to employees, including dates of birth and home telephone numbers and addresses. The district states it has released some of the requested information, but claims some of the submitted information is excepted from disclosure under section 552.102 of the Government Code. We have considered the claimed exception 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). We agree the district must withhold the submitted dates of birth under section 552.102(a) of the Government Code.

It appears the remaining information contains the home telephone numbers and addresses of employees. 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.<sup>1</sup> Gov't Code § 552.117(a)(1). Whether information is

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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 at 2 (1987), 480 at 5 (1987).

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 submitted home telephone numbers and addresses of employees under section 552.117(a)(1) of the Government Code if the employees at issue timely elected to withhold that information.

In summary, the district must withhold the submitted dates of birth under section 552.102(a) of the Government Code. The district must also withhold the submitted home telephone numbers and addresses of employees under section 552.117(a)(1) of the Government Code if the employees at issue timely elected to withhold that information. The district must release the remaining information.

Finally, the district asks this office to issue a previous determination permitting it to withhold employee dates of birth under section 552.102 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. 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/mo

Ref: ID# 952286

Enc. Submitted documents

c: Requestor  
(w/o enclosures)