



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 13, 2022

Mr. Stephen Trautmann, Jr.
Counsel for the United Independent School District
Trautmann Garcia PLLC
7110 Rocio Drive #13
Laredo, Texas 78041

OR2022-20067

Dear Mr. Trautmann:

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# 958351.

The United Independent School District (the "district"), which you represent, received a request for two categories of information. You claim the submitted information is excepted from disclosure under sections 552.117 and 552.137 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note you have not submitted information responsive to the first category of the request for information. To the extent any information responsive to this portion of the request existed on the date the district received the request, we assume the district has released it. If the district has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

Section 552.117(a)(17) of the Government Code excepts from disclosure the home address and telephone number, emergency contact information, social security number, and family member information of an elected public officer, regardless of whether the officer complies

¹ Although you also raise section 552.101 of the Government Code, you have not provided any arguments to support this exception. Therefore, we assume you have withdrawn your claim this section applies to the submitted information. *See* Gov't Code §§ 552.301, .302.

with section 552.024 or section 552.1175 of the Government Code. *See* Gov't Code § 552.117(a)(17). We note section 552.117 is also applicable to personal cellular telephone numbers, provided the cellular telephone service is not paid for by a governmental body. *See* Open Records Decision No. 506 at 5-6 (1988) (section 552.117 not applicable to cellular telephone numbers paid for by governmental body and intended for official use). Accordingly, the district must withhold the information we have marked under section 552.117(a)(17) of the Government Code. However, if the marked telephone number is a cellular telephone number, it may only be withheld if the cellular telephone service is not paid for by the governmental body.

Section 552.117(a)(2) of the Government Code excepts from public disclosure the home address, home telephone number, emergency contact information, and social security number of a current or honorably retired peace officer, as well as information that reveals whether the current or honorably retired peace officer has family members, regardless of whether the current or honorably retired peace officer complies with sections 552.024 and 552.1175 of the Government Code. *See* Gov't Code § 552.117(a)(2); *see also id.* § 552.003(1-b) (defining "honorably retired" for purposes of the Act). Section 552.117(a)(2) applies to peace officers as defined by article 2.12 of the Code of Criminal Procedure. In this instance, however, it is unclear whether the individuals whose information is at issue are current or honorably retired peace officers as defined by article 2.12. To the extent the individuals at issue are current or honorably retired peace officers as defined by article 2.12, then the district must withhold the information we marked under section 552.117(a)(2) of the Government Code, including any personal cellular telephone numbers if the cellular telephone service is not paid for by a governmental body. Conversely, to the extent the individuals at issue are not current or honorably retired peace officers as defined by article 2.12, the information at issue may not be withheld under section 552.117(a)(2) of the Government Code.

If the individuals at issue are not a current or honorably retired peace officers, then the individuals' personal information may be subject to section 552.117(a)(1) of the Government Code, which excepts 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 id.* §§ 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 piece of 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). The district may only withhold the information at issue under section 552.117(a)(1) if the individual at issue elected confidentiality under section 552.024 prior to the date on which the request for this information was made. If the individuals at issue are not current or honorably retired peace officers as defined by article 2.12 of the Code of

Criminal Procedure but timely requested confidentiality pursuant to section 552.024, the district must withhold the information we marked under section 552.117(a)(1), including any personal cellular telephone numbers if the cellular telephone service is not paid for by a governmental body. However, if the individuals at issue did not timely request confidentiality pursuant to section 552.024, the district may withhold any of the information at issue under section 552.117(a)(1). Further, we find you have failed to demonstrate any of the remaining information is subject to section 552.117, and the district may not withhold it on that basis.

Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential.² Gov't Code § 552.1175. Section 552.1175 applies, in part, to “current or honorably retired peace officers as defined by Article 2.12, Code of Criminal Procedure [.]” and “a current or former employee of a district attorney, criminal district attorney, or county or municipal attorney whose jurisdiction includes any criminal law or child protective services matters[.]” *Id.* § 552.1175(a)(1), (5-a); *see also id.* § 552.003(1-b) (defining “honorably retired” for purposes of the Act). We note section 552.1175 is also applicable to personal cellular telephone numbers, provided the cellular telephone service is not paid for by a governmental body. *See* ORD 506 at 5-6. Some of the remaining information pertains to individuals who may be subject to section 552.1175. Thus, to the extent the information we marked relates to an individual who is subject to section 552.1175(a) and who elects to restrict access to the information in accordance with section 552.1175(b), the district must withhold the information we marked under section 552.1175 of the Government Code, including any personal cellular telephone numbers if the cellular telephone service is not paid for by a governmental body. If the individuals whose information is at issue are not subject to section 552.1175(a) or do not elect to restrict access to their information pursuant to section 552.1175(b), the district may not withhold this information under section 552.1175 of the Government Code.

Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body,” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c).³ Gov't Code § 552.137(a)-(c). Section 552.137 does not apply to an institutional e-mail address, the general e-mail address of a business, an e-mail address of a person who has a contractual relationship with a governmental body, an e-mail address of a vendor who seeks to contract with a governmental body, an e-mail address maintained by a governmental entity for one of its officials or employees, or an e-mail address provided to a governmental body on a

² 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).

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letterhead. *See id.* § 552.137(c). The e-mail addresses we marked are not excluded by subsection (c). Accordingly, the district must withhold the personal e-mail addresses we have marked under section 552.137 of the Government Code, unless the owners affirmatively consent to their public disclosure.

In summary, the district must withhold the information we have marked under section 552.117(a)(17) of the Government Code; however, if the marked telephone number is a cellular telephone number, it may only be withheld if the cellular telephone service is not paid for by the governmental body. To the extent the individuals at issue are current or honorably retired peace officers as defined by article 2.12, then the district must withhold the information we marked under section 552.117(a)(2) of the Government Code, including any personal cellular telephone numbers if the cellular telephone service is not paid for by a governmental body. To the extent the individuals at issue are not a current or honorably retired peace officers as defined by article 2.12 of the Code of Criminal Procedure but timely requested confidentiality pursuant to section 552.024, the district must withhold the information we marked under section 552.117(a)(1), including any personal cellular telephone numbers if the cellular telephone service is not paid for by a governmental body. To the extent the information we marked relates to an individual who is subject to section 552.1175(a) and who elects to restrict access to the information in accordance with section 552.1175(b), the district must withhold the information we marked under section 552.1175 of the Government Code, including any personal cellular telephone numbers if the cellular telephone service is not paid for by a governmental body. The district must withhold the personal e-mail addresses we have under section 552.137 of the Government Code, unless the owners affirmatively consent to their public disclosure. 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,

Nick Ybarra
Assistant Attorney General
Open Records Division

NY/jm

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Enc. Submitted documents

c: Requestor
(w/o enclosures)