



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 8, 2022

Ms. Katie Pestcoe  
Counsel for the Mansfield Independent School District  
Leasor & Crass, P.C.  
302 West Broad Street  
Mansfield, Texas 76063

OR2022-23555

Dear Ms. Pestcoe:

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# 964655.

The Mansfield Independent School District (the "district"), which you represent, received a request for information pertaining to a particular motor vehicle accident involving the requestor's client. You claim the submitted information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note some of the submitted information, which we have marked, is not responsive to the instant request because it was created after the district received the instant request. This ruling does not address the public availability of any information that is not responsive to the request, and the district is not required to release such information in response to this request.<sup>1</sup>

Next, we note the responsive information is subject to section 552.022 of the Government Code. Section 552.022(a) provides, in relevant part, as follows:

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<sup>1</sup> As we are able to make this determination, we need not address your arguments against disclosure of this information.

[T]he following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

(a) [T]he following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

(1) a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108[.]

Gov't Code § 552.022(a)(1). The responsive information consists of information in a completed investigation and is subject to section 552.022(a)(1). The information subject to section 552.022(a)(1) must be released unless it is excepted from disclosure under section 552.108 of the Government Code or is made confidential under the Act or other law. *See id.* The district seeks to withhold the information at issue under section 552.103 of the Government Code. However, section 552.103 is discretionary in nature and does not make information confidential under the Act. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive Gov't Code § 552.103); *see also* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions). Therefore, the district may not withhold the responsive information under section 552.103 of the Government Code. However, as sections 552.102, 552.117, 552.130, and 552.147(a-1) of the Government Code can make information confidential under the Act, we will address the applicability of these sections to the responsive information subject to section 552.022(a)(1).<sup>2</sup>

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 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). Thus, under Texas Comptroller, section 552.102(a) is applicable to the birth date of an employee of a governmental body in a record maintained by his or her employer in an employment context. Accordingly, the district must withhold the employees' dates of birth we have marked under section 552.102(a) of the Government Code.

Section 552.117(a)(1) of the Government Code 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* Gov't Code

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<sup>2</sup> The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

§ 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. Section 552.117(a)(1) also applies to the personal cellular telephone number of a current or former official or employee of a governmental body, provided the cellular telephone service is not paid by a governmental body. *See* Open Records Decision No. 506 at 5-6 (1988). 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 be withheld under section 552.117(a)(1) only on behalf of a current or former employee or official 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. Information may not be withheld under section 552.117(a)(1) on behalf of a current or former employee or official who did not timely request under section 552.024 the information be kept confidential. Therefore, to the extent the employees at issue timely requested confidentiality under section 552.024 of the Government Code, the district must withhold the information we have marked under section 552.117(a)(1) of the Government Code; however, the district may only withhold the marked cellular telephone numbers if the cellular telephone services are not paid for by a governmental body.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov’t Code § 552.130(a). We note section 552.130 protects privacy interests. Accordingly, the requestor has a right of access to her client’s motor vehicle record information pursuant to section 552.023 of the Government Code and it may not be withheld from her. *See id.* § 552.023(a) (“person or a person’s authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and that is protected from public disclosure by laws intended to protect that person’s privacy interests”); ORD 481 at 4 (privacy theories not implicated when individual requests information concerning herself). However, the district must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

Section 552.147(a-1) provides, “The social security number of an employee of a school district in the custody of the district is confidential.” Gov’t Code § 552.147(a-1). Thus, section 552.147(a-1) makes the social security numbers of school district employees confidential, without such employees being required to first make a confidentiality election under section 552.024 of the Government Code. *Id.* § 552.024(a-1) (school district may not require employee or former employee of district to choose whether to allow public access to employee’s or former employee’s social security number). Reading sections 552.024(a-1) and 552.147(a-1) together, we conclude section 552.147(a-1) makes confidential the social security numbers of both current and former school district

employees. Accordingly, the district must withhold the district employees' social security numbers we have marked under section 552.147(a-1).

In summary, the district must withhold the employees' dates of birth we have marked under section 552.102(a) of the Government Code. To the extent the employees at issue timely requested confidentiality under section 552.024 of the Government Code, the district must withhold the information we have marked under section 552.117(a)(1) of the Government Code; however, the district may only withhold the marked cellular telephone numbers if the cellular telephone services are not paid for by a governmental body. The district must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. The district must withhold the district employees' social security numbers we have marked under section 552.147(a-1) of the Government Code. The district must release the remaining responsive information to this requestor.<sup>3</sup>

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,

Erin Groff  
Assistant Attorney General  
Open Records Division

EMG/jm

Ref: ID# 964655

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>3</sup> We note the requestor has a right of access to some of the information being released. *See* Gov't Code § 552.023(a); ORD 481 at 4. Thus, the district must again seek a decision from this office if it receives another request for the same information from another requestor.