



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 7, 2022

Ms. Jennifer Burnett
Office of the General Counsel
University of Texas System
210 West Seventh Street
Austin, Texas 78701-2903

OR2022-30885

Dear Ms. Burnett:

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# 977012 (ORR# 206891).

The University of Texas at El Paso (the "university") received a request for salary information pertaining to university head coaches. The university states it is withholding some of the requested information pursuant to Open Records Letter No. 2017-10416 (2017).¹ The university claims some of the submitted information is either not subject to the Act or excepted from disclosure under sections 552.101 and 552.117 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

The university asserts the submitted employee identification number is not subject to the Act. In Open Records Decision No. 581 (1990), this office determined that certain computer information, such as source codes, documentation information, and other computer programming, that has no significance other than its use as a tool for the maintenance, manipulation, or protection of public property is not the kind of information made public under section 552.021 of the Government Code. The university has previously informed our office these computer-generated numbers provide administrative access to the university's computer system, but are not used as computer log-on information. Based on this representation and our review, we agree the submitted university employee

¹ Open Records Letter No. 2017-10416 authorizes the university to withhold dates of birth of members of the public under section 552.101 of the Government Code in conjunction with common-law privacy without the necessity of requesting an attorney general's decision. *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001).

identification number does not constitute public information under section 552.002 of the Government Code. Accordingly, the employee identification number is not subject to the Act and the university is not required to release it.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in the *Industrial Foundation* decision. *Id.* at 683. This office has found personal financial information not relating to the financial transaction between an individual and a governmental body is excepted from required public disclosure under common-law privacy. *See* Open Records Decision Nos. 600 (1992), 545 (1990). Upon review, we find some of the submitted information, which we have marked, satisfies the standard articulated by the Texas Supreme Court in the *Industrial Foundation* decision. Accordingly, the university must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, the remaining information is not confidential under common-law privacy, and the university may not withhold it under section 552.101 on that ground.

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. Gov’t Code § 552.117(a)(1). For purposes of section 552.117, “family member” means a spouse, minor child, or adult child who resides in the person’s home. *See id.* 552.117(c) (providing that “family member” has meaning assigned by Fin. Code § 31.006(d)). Whether 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). Therefore, the university 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 university must withhold the information it has marked, as well as the information we have marked, under section 552.117(a)(1) of the Government Code if the employee at issue timely elected to withhold that information.

In summary, the university must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The university must also withhold the information marked under section 552.117(a)(1) of the Government Code if the employee at issue timely elected to withhold that information. The university must release the remaining responsive 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,

James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/eb

Ref: ID# 977012

Enc. Submitted documents

c: Requestor
(w/o enclosures)