



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 18, 1995

Mr. Robert J. Young  
Dallas County Community College  
R. L. Thornton, Jr. Building  
701 Elm Street, Room 400  
Dallas, Texas 75202-3299

OR95-1434

Dear Mr. Young:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 30916.

The Dallas County Community College District (the "district") received a request for copies of the personnel files of four of its employees. You seek to withhold from required public disclosure portions of the requested files pursuant to section 552.101 and 552.111 of the Government Code.

Section 552.101 of the Government Code excepts from required public disclosure information that is confidential by law, including information made confidential by judicial decision. This exception applies to information made confidential by the common-law right to privacy. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Information may be withheld under section 552.101 in conjunction with the common-law right to privacy if the information contains highly intimate or embarrassing facts about a person's private affairs such that its release would be highly objectionable to a reasonable person and if the information is of no legitimate concern to the public. *See id.*

We agree that common-law privacy excepts from disclosure the financial information you enclosed. *See* Open Records Decision No. 600 (1992). However, common-law privacy does not except from disclosure the copy of a driver's license.

Section 552.117 of the Government Code may except from required public disclosure the home address of the employees, including the address on a driver's license. If at the time the district received the open records request, the employee had elected to not release his home address in accordance with section 552.024 of the Government Code, the district must withhold the address from disclosure based on section 552.117 of the Government Code. *See* Open Records Decision No. 530 (1989).

If an employee had not made the section 552.024 election when the district received the request, the district may not withhold that employee's address from required public disclosure based on section 552.117 of the Government Code. However, section 552.101 may except an employee's home address if that employee demonstrates that special circumstances exist that would make disclosure of the address a clearly unwarranted invasion of personal privacy. *See* Open Records Decision No. 169 (1977) at 7 (copy enclosed). Such circumstances exist when an employee has taken precautions to insure that his or her home address is not available to the public. *See id.*

We lack the necessary information in this case to conclude that special circumstances exist for withholding the home address of any of the employees. The district also seeks to withhold the employees' family member names. If the employees have taken precautions to insure that their home addresses are not available to the public, even if done so in response to this open records request, the home addresses and family member names may be protected from disclosure under the common-law right to privacy. *See id.* We suggest that the district seek such information from each employee and, if warranted, seek another determination from this office about whether the home addresses and family member names must be withheld from disclosure based on section 552.101 in conjunction with the common-law right to privacy. *See id.*

The enclosed information also contains a social security number. Social security numbers may be withheld in some circumstances under section 552.101 of the Government Code. A social security number or "related record" may be excepted from disclosure under section 552.101 in conjunction with the 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(viii)(I). *See* Open Records Decision No. 622 (1994). These amendments make confidential social security numbers and related records that are obtained and maintained by a state agency or political subdivision of the state pursuant to any provision of law enacted on or after October 1, 1990. *See id.* We have no basis for concluding that any of the social security numbers in the file are confidential under section 405(c)(2)(C)(viii)(I), and therefore excepted from public disclosure under section 552.101 of the Open Records Act on the basis of that federal provision. We caution, however, that section 552.353 of the Open Records Act imposes criminal penalties for the release of confidential information. Prior to releasing any social security number information, you should ensure that no such information was obtained or is maintained by the district pursuant to any provision of law, enacted on or after October 1, 1990.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Guajardo  
Assistant Attorney General  
Open Records Division

KHG/rho

Ref.: ID# 30916

Enclosures: Submitted documents  
Open Records Decision No. 169

cc: Mr. Philip G. Thomas  
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(w/o submitted documents)

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