



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 3, 2006

Ms. Ylise Janssen  
Senior School Law Attorney  
Austin Independent School District  
1111 West Sixth Street  
Austin, Texas 78703-5399

OR2006-11935A

Dear Ms. Janssen:

This office issued Open Records Letter No. 2006-11935 (2006) on October 12, 2006. We have examined this ruling and determined that we made an error. Where this office determines that an error was made in the decision process under sections 552.301 and 552.306 of the Government Code, and that error resulted in an incorrect decision, we will correct the previously issued ruling. Consequently, this serves as the correct decision and is a substitute for the decision issued on October 12, 2006. *See generally* Gov't Code § 552.011 (providing that Office of Attorney General may issue decision to maintain uniformity in application, operation, and interpretation of the Public Information Act (the "Act")).

You seek a ruling from this office on behalf of the Austin Independent School District (the "district") concerning whether the district must release the birth dates of district employees. We have assigned this request for a ruling ID# 261804.

We note that there is a pending lawsuit filed against the Office of the Attorney General: *Tex. Comptroller of Public Accounts v. Abbott*, No. D-1-GN-001120 (126th Dist. Ct., Travis County, Tex.). The arguments and the information pertaining to birth dates of district employees are the same as the issues and information in the pending litigation. Accordingly, we are closing our file with regard to birth dates without a finding and will allow the trial court to resolve the issue of whether this type of information must be released to the requestor.

We note, however, that you have submitted information in the instant request for a ruling that is not the type of information that is at issue in the pending lawsuit. Therefore, we will rule on this information.

We note that portions of the remaining submitted information may be subject to section 552.117 of the Government Code.<sup>1</sup> Section 552.117(a)(1) excepts from disclosure the home addresses and telephone numbers, 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. We note that an individual's personal post office box number is not a "home address" and therefore may not be withheld under section 552.117. *See* Gov't Code § 552.117; Open Records Decision No. 622 at 4 (1994) ("The legislative history of section 552.117(1)(A) makes clear that its purpose is to protect public employees from being harassed *at home*. *See* House Committee on State Affairs, Bill Analysis, H.B. 1976, 69th Leg. (1985); Senate Committee on State Affairs, Bill Analysis, H.B. 1976, 69th Leg. (1985)." (Emphasis added.)); *see also* Open Records Decision Nos. 658 at 4 (1998), 478 at 2 (1987), 465 at 4-5 (1987). 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). Therefore, the district must withhold the categories of information we have marked under section 552.117 for employees who made timely elections for confidentiality under section 552.024.

In summary, this ruling does not address the information that is at issue in the district's pending lawsuit with the Office of the Attorney General. The district must withhold the categories of information we have marked under section 552.117 for employees who made timely elections for confidentiality under section 552.024. The remaining requested information must be released.

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 example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days.

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception like section 552.117 on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

*Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

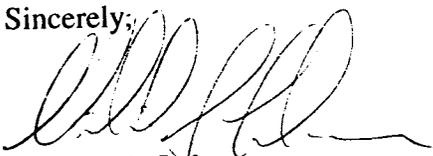
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Michael A. Lehmann  
Assistant Attorney General  
Open Records Division

MAL/krl

Ref: ID# 261804

c: Mr. Bruce Banner  
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