



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 21, 2007

Ms. Meridith L. Hayes  
Law Offices of Robert E. Luna, P.C.  
For Coppell Independent School District  
4411 North Central Expressway  
Dallas, Texas 75205

OR2007-02072

Dear Ms. Hayes:

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# 271950.

The Coppell Independent School District (the "district"), which you represent, received a request for seven categories of information relating to courses in which the Bible is being taught or used. You state that the district will withhold social security numbers under section 552.147 of the Government Code.<sup>1</sup> You claim that other responsive information is excepted from disclosure under sections 552.102, 552.117, 552.130, and 552.137 of the Government Code. We have considered the exceptions you claim and have reviewed the information you submitted. We assume that the district has released any other information that is responsive to this request, to the extent that such information existed when the district received the request. If not, then any such information must be released immediately.<sup>2</sup> See Gov't Code §§ 552.221, .301, .302; Open Records Decision No. 664 (2000).

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<sup>1</sup>Section 552.147 provides in part that "[t]he social security number of a living person is excepted from" required public disclosure under the Act. Gov't Code § 552.147(a). Section 552.147(b) authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

<sup>2</sup>We note that the Act does not require a governmental body to release information that did not exist when it received a request or create responsive information. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App. – San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

Section 552.102(b) of the Government Code excepts from disclosure “a transcript from an institution of higher education maintained in the personnel file of a professional public school employee[.]” Gov’t Code § 552.102(b). This exception also provides, however, that “the degree obtained or the curriculum on a transcript in the personnel file of the employee” are not excepted from disclosure. *Id.*; *see also* Open Records Decision No. 526 (1989). You state that the submitted documents include transcripts from institutions of higher education that are maintained in the personnel files of district employees. Based on your representation, we agree that except for the information that reveals the degree obtained and the courses taken, the district must withhold the submitted transcripts under section 552.102(b).

Section 552.117(a)(1) of the Government Code excepts from disclosure the home address and telephone number, social security number, and family member information of a current or former employee of a governmental body who requests that this information be kept confidential under section 552.024 of the Government Code. 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 only be withheld under section 552.117(a)(1) on behalf of a current or former official or employee 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 official or employee who did not timely request under section 552.024 that the information be kept confidential.

You have highlighted the information that the district seeks to withhold under section 552.117(a)(1). We find that some of that information, which we have marked, does not fall within the scope of section 552.117(a)(1) and may not be withheld under this exception. Otherwise, we agree that the district may be required to withhold the highlighted information under section 552.117(a)(1). We have marked other information that may also be excepted from disclosure on this basis. You state that the information that the district seeks to withhold under section 552.117(a)(1) relates to employees who have requested privacy under section 552.024. You do not inform us, however, whether these employees did so prior to the district’s receipt of this request for information. Nevertheless, we conclude that to the extent that the rest of the highlighted information and the information that we have marked relates to current or former employees of the district who requested confidentiality for that information before the district received this request, the information in question is excepted from disclosure under section 552.117(a)(1).

Section 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle operator’s or driver’s license or permit issued by an agency of this state. *See* Gov’t Code § 552.130(a)(1). We agree that the Texas driver’s license number that you have highlighted is excepted from disclosure under section 552.130.

Section 552.137(a) of the Government Code states that “[e]xcept as otherwise provided by this section, an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure under this chapter.” Gov’t Code § 552.137(a). Section 552.137 excepts from public disclosure certain e-mail addresses of members of the public that are provided for the purpose of communicating electronically with a governmental body, unless the owner of the e-mail address has affirmatively consented to its public disclosure. *See id.* § 552.137(b). The types of e-mail addresses listed in section 552.137(c) may not be withheld under this exception. *See id.* § 552.137(c). Likewise, section 552.137 is not applicable to an institutional e-mail address, an Internet website address, or an e-mail address that a governmental entity maintains for one of its officials or employees.

You have highlighted personal e-mail addresses that the district seeks to withhold under this exception. We agree that the highlighted e-mail addresses are excepted from disclosure under section 552.137, unless the owner of an e-mail address has affirmatively consented to its public disclosure. We have marked another e-mail address that must also be withheld under section 552.137, unless the owner has consented to its release.

Lastly, we note that some of the remaining information appears to be protected by copyright. A governmental body must allow inspection of copyrighted information unless an exception to disclosure applies to the information. *See* Attorney General Opinion JM-672 (1987). An officer for public information also must comply with copyright law, however, and is not required to furnish copies of copyrighted information. *Id.* A member of the public who wishes to make copies of copyrighted information must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit. *See* Open Records Decision No. 550 at 8-9 (1990).

In summary: (1) except for the information that reveals the degree obtained and the courses taken, the district must withhold the academic transcripts under section 552.102(b); (2) to the extent that it relates to current or former employees who timely requested confidentiality under section 552.024 of the Government Code, the district must withhold the highlighted and marked information that falls within the scope of section 552.117(a)(1) of the Government Code; (3) the Texas driver’s license number is excepted from disclosure under section 552.130 of the Government Code; and (4) the highlighted and marked e-mail addresses are excepted from disclosure under section 552.137 of the Government Code, unless the owner of an e-mail address has affirmatively consented to its public disclosure. The rest of the submitted information must be released. Information that is protected by copyright must be released in accordance with copyright law.

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. *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).

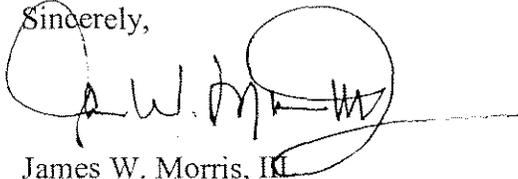
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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,

A handwritten signature in black ink, appearing to read "James W. Morris, III", written over a horizontal line. The signature is stylized and somewhat cursive.

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/jww

Ref: ID# 271950

Enc: Submitted documents

c: Ms. Lisa Graybill  
American Civil Liberties Union of Texas  
P.O. Box 12905  
Austin, Texas 78711-2905  
(w/o enclosures)