



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 14, 2009

Mr. Jerry M. Brown
Assistant General Counsel
Texas A&M University System
200 Technology Way, Suite 2079
College Station, Texas 77845-3424

OR2009-06548

Dear Mr. Brown:

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# 343175 (TAMU PIA No. 09-113).

Texas A&M University (the "university") received a request for specified e-mail correspondence between named individuals during a specified time period as well as specified letters of dismissal since January 1, 1005. You state that you are releasing some of the requested information. You also state that the university has redacted some information pursuant to the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232(a).¹ You claim that portions of the submitted information are excepted from disclosure under sections 552.117, 552.136, and 552.137 of the Government Code.² We have considered the exceptions you claim and reviewed the submitted information.

Section 552.117(a)(1) of the Government Code excepts from disclosure the home addresses and telephone numbers, social security numbers, and family member information of current

¹We note that our office is prohibited from reviewing these educational records to determine whether appropriate redactions under FERPA have been made; therefore, we will not address the applicability of FERPA to any of the submitted records.

²We note that although you do not raise section 552.117 of the Government Code in your brief to this office, you have marked portions of the submitted information under this exception. Thus, we understand you to raise section 552.117.

or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024. Gov't Code § 552.117. Section 552.117 also encompasses personal cellular telephone numbers, provided that the cellular phone service is paid for by the employee with his or her own funds. *See* Open Records Decision No. 670 at 6 (2001) (extending section 552.117(a)(1) exception to personal cellular phone number and personal pager number of employee who elects to withhold home phone number in accordance with section 552.024). Thus, the information you have marked must be withheld under section 552.117(a)(1) if it is the personal cellular telephone number of a university employee who timely elected confidentiality under section 552.024.

You claim the user ID, password, and instructions for how to create a user ID and password that you have marked in the remaining information are confidential under section 552.136(b) of the Government Code, which states that “[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” Gov't Code § 552.136. An access device number is one that may be used to (1) obtain money, goods, services, or another thing of value, or (2) initiate a transfer of funds other than a transfer originated solely by paper instrument, and includes an account number. *Id.* § 552.136(a). You state that the information at issue is used to access an online scholastic journal and allows people to make comments on journal articles. Upon review of your arguments and the information at issue, we find that you have failed to demonstrate this information constitutes access device numbers used to obtain money, goods, services, or another thing of value or initiate a transfer of funds other than a transfer originated solely by paper instrument. We therefore conclude the university may not withhold the information you have marked under section 552.136 of the Government Code.

You claim the remaining information includes e-mail addresses that are subject to section 552.137 of the Government Code, which excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body,” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See id.* § 552.137(a)-(c). The e-mail addresses you have marked in the remaining information are not specifically excluded by section 552.137(c). As such, these e-mail addresses, and the additional addresses we have marked, must be withheld under section 552.137, unless the owners of the addresses have affirmatively consented to their release. *See id.* § 552.137(b).

In summary, the information you have marked must be withheld under section 552.117(a)(1) if it is the personal cellular telephone number of a university employee who timely elected confidentiality under section 552.024. The e-mail addresses you have marked, and the additional addresses we have marked, must be withheld under section 552.137 of the Government Code, unless the owners of the addresses have affirmatively consented to their release. The remaining information must be released.

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 http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Paige Savoie
Assistant Attorney General
Open Records Division

PS/eeg

Ref: ID# 343175

Enc. Submitted documents

cc: Requestor
(w/o enclosures)