



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 16, 2009

Ms. Susan K. Bohn  
General Counsel  
Lake Travis Independent School District  
3322 Ranch Road 620 South  
Austin, Texas 78738

OR2009-09853

Dear Ms. Bohn:

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# 349355 (103108-R081/DL 3519).

The Lake Travis Independent School District (the "district") received a request for "all billing statements, invoices, and payments regarding any cellular telephone numbers paid for by the district during a specified time period, including records for several specified phone numbers. You state that you have released some of the responsive information. You claim that portions of the submitted information are excepted from disclosure under sections 552.117 and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.<sup>1</sup>

Initially, we note, and you acknowledge, that the district failed to comply with the procedural requirements of section 552.301 of the Government Code. *See Gov't Code* § 552.301(b), (e). Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption the information is public and must be released unless a governmental body demonstrates a

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<sup>1</sup>We assume that the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See Open Records Decision Nos. 499 (1988), 497 (1988)*. This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

compelling reason to overcome this presumption. *See Hancock v. State Bd. of Ins.*, 797 S.W. 2d 379, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to Gov't Code § 552.302); Open Records Decision No. 319 (1982). The presumption that information is public under section 552.302 can generally be overcome by demonstrating that the information is confidential by law or third-party interests are at stake. *See* Open Records Decision Nos. 630 at 3 (1994), 325 at 2 (1982). Sections 552.117 and 552.136 of the Government Code can provide compelling reasons to overcome this presumption; therefore, we will address the applicability of these exceptions to the submitted information.

You assert that the telephone numbers you have marked within the submitted information are subject to section 552.117(a)(1) of the Government Code, which 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. Gov't Code § 552.117. Additionally, section 552.117 encompasses personal cellular telephone numbers, provided that the cellular telephone 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 telephone phone number and personal pager number of employee who elects to withhold home telephone phone number in accordance with section 552.024). Whether a particular piece of information is protected by section 552.117 must be determined at the time the request for it is received. *See* Open Records Decision No. 530 at 5 (1989). You state that the home and personal cellular telephone numbers you have marked within the submitted information pertain to district employees who timely requested this information be made confidential pursuant to section 552.024. You indicate that the personal cellular numbers you have marked pertain to telephone service paid for by the employees at issue with their own funds. Based upon your representations, we agree that the phone numbers you have marked, and the additional information we have marked, within the submitted information must be withheld under section 552.117(a)(1) of the Government Code.

Section 552.136(b) states that “[n]otwithstanding any other provision of [the Act], 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.” *Id.* Upon review, we agree the account numbers you have marked in the submitted information are access device numbers for the purposes of section 552.136. Accordingly, the district must withhold the account numbers under section 552.136.

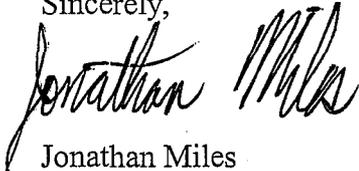
In summary, the district must withhold the phone numbers you have marked, and the additional information we have marked, under section 552.117 of the Government Code and

the marked account numbers under section 552.136 of the Government Code. The remaining information must be released to the requestor.

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](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,



Jonathan Miles  
Assistant Attorney General  
Open Records Division

JM/cc

Ref: ID# 349355

Enc. Submitted documents

c: Requestor  
(w/o enclosures)