



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 22, 2013

Mr. Orlando Juarez, Jr.  
Counsel for United Independent School District  
Escamilla, Poneck & Cruz, L.L.P.  
216 West Village Boulevard, Suite 202  
Laredo, Texas 78041

OR2013-01247

Dear Mr. Juarez:

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# 476748.

The United Independent School District (the "district"), which you represent, received a request for information pertaining to certain district employment opportunities and a specified unemployment insurance claim filed by the requestor. You state the district has or will release some of the responsive information to the requestor. You claim some of the submitted information is excepted from disclosure under sections 552.117 and 552.137 of the Government Code. 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 address and telephone number, emergency contact information, social security number, and family member information of a current or former official or employee of a governmental body who timely requests this information be kept confidential under section 552.024. Gov't Code §§ 552.024, .117. The protections of section 552.117 only apply to information that the governmental body holds in its capacity as an employer. *See id.* § 552.117(a)(1) (providing that employees of governmental entities may protect certain personal information in the hands of their employer); Open Records Decision No. 455 (1987) (statutory predecessor to section 552.117 does not except information pertaining to applicants who are not employees). 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 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 or not later than the 14th day after the date on which the employee began employment with the governmental body. *See* Gov't Code § 552.024(b). Information may not be withheld under section 552.117(a)(1) on behalf of a current or former employee who did not timely request under section 552.024 the information be kept confidential. Section 552.117 encompasses a personal cellular telephone number, unless the cellular service is paid for by a governmental body. *See* Open Records Decision No. 506 at 5-7 (1988) (statutory predecessor to section 552.117 not applicable to cellular telephone numbers provided and paid for by governmental body and intended for official use). We note section 552.117 does not encompass a work phone number. We also note section 552.117 protects personal privacy. Therefore, the requestor has a right of access to his own information and it may not be withheld from him under section 552.117. *See* Gov't Code § 552.023(a) (person has special right of access, beyond right of general public, to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person's privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual asks governmental body to provide him with information concerning himself).

You state the submitted information contains telephone numbers of district applicants and current district employees; however, you do not identify which numbers apply to applicants and which numbers apply to district employees. Therefore, to the extent the information we have marked pertains to applicants who were ultimately hired or to current district employees, the district must withhold such information under section 552.117(a)(1) if the individuals at issue timely requested confidentiality under section 552.024. Conversely, to the extent the individuals whose information we have marked were not ultimately hired or are district employees who did not timely request confidentiality under section 552.024, the district may not withhold their personal information under section 552.117(a)(1) of the Government Code. The marked cellular telephone numbers may only be withheld, however, if the cellular service was not paid for by a governmental body.

Section 552.137 of the Government Code 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 owner of the e-mail address consents to its release or the e-mail address falls within the scope of section 552.137(c). *See* Gov't Code § 552.137(a)-(c). We note section 552.137 is not applicable to an institutional e-mail address, an Internet website address, or an e-mail address a governmental entity maintains for one of its officials or employees. We also note the information you have marked includes the requestor's e-mail address, to which he has a right of access pursuant to section 552.137(b) of the Government Code. *See id.* § 552.137(b). Therefore, the district must withhold the e-mail addresses we have marked under section 552.137 of the Government Code, unless the owners of the e-mail addresses have affirmatively consented to their release. The remaining information at issue consists of institutional e-mail addresses

or the e-mail address of the requestor. Therefore, none of the remaining information may be withheld under section 552.137.

In summary, to the extent the information we have marked pertains to applicants who were ultimately hired or current district employees, the district must withhold such information under section 552.117(a)(1) if the individuals at issue timely requested confidentiality under section 552.024. However, the marked cellular telephone numbers may only be withheld if the cellular service was not paid for by a governmental body. The district must withhold the e-mail addresses we have marked under section 552.137 of the Government Code, unless the owners of the e-mail addresses have affirmatively consented to their release. The remaining information must be released.<sup>1</sup>

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, toll free at (888) 672-6787.

Sincerely,



Michelle R. Garza  
Assistant Attorney General  
Open Records Division

MRG/som

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<sup>1</sup>We note the information being released contains the requestor's personal information, which the district might be required to withhold from the general public under section 552.117(a)(1) of the Government Code. *See* Gov't Code § 552.023. Further, as previously noted, the information being released contains the requestor's e-mail address, to which he has a right of access under section 552.137(b). *See id.* § 552.137(b). Should the district receive another request for this information from a different requestor, the district is authorized to withhold the requestor's personal information under section 552.024(c) of the Government Code without requesting a decision under the Act if the requestor timely requested confidentiality for the information. *See id.* § 552.024(c). *But see id.* § 552.024(c-2). Additionally, Open Records Decision No. 684 (2009) authorizes the district to withhold the requestor's e-mail address under section 552.137, without the necessity of requesting an attorney general decision. *See* ORD 684.

Ref: ID# 476748

Enc. Submitted documents

c: Requestor  
(w/o enclosures)