ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 17, 2014

Mr. David P. Backus
Counsel for the Education Service Center, Region 9
Underwood Law Firm, P.C.
P.O. Box 16197
Lubbock, Texas 79490

OR2014-04381

Dear Mr. Backus:

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# 516908.

The Education Service Center, Region 9 (the "ESC"), which you represent, received a request for information pertaining to active members of the ESC's retirement system for a specified period of time. You claim the requested information is excepted from disclosure under section 552.101 of the Government Code. You also state you have notified the Teacher Retirement System of Texas (the "retirement system") of the request pursuant to section 552.304 of the Government Code. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have received comments from the retirement system. We have considered the submitted arguments and reviewed the submitted information.[1]

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101.

[1]We assume 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.

Section 552.101 encompasses section 825.507 of the Government Code, which provides in relevant part:

> (a) Records of a participant and information about the records of a participant that are in the custody of the retirement system or of an administrator, carrier, attorney, consultant, or governmental agency, including the comptroller, acting in cooperation with or on behalf of the retirement system are confidential and not subject to public disclosure. Because the records and information described by this section are exempt from the public access provisions of Chapter 552 [of the Government Code], the retirement system or an administering firm, carrier, attorney, consultant, or governmental agency, including the comptroller, acting in cooperation with or on behalf of the retirement system, is not required to accept or comply with a request for a record or information about a record or to seek an opinion from the attorney general, except as otherwise provided by this section.
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> . . .
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> (g) In this section, "participant" means a member, former member, retiree, annuitant, beneficiary, or alternate payee of the retirement system[.]

Id. § 825.507(a), (g). You state the requested information consists of records of participants or information about the records of participants in the retirement system. You state the information at issue is in the custody of the ESC in cooperation with the retirement system. We note the requestor has not asserted any of the provisions of section 825.507(b) are applicable in this instance, nor has the requestor provided any information that would allow the ESC to determine that any of these provisions apply. *See id.* § 825.507(b). Accordingly, we conclude the requested information is confidential under section 825.507 of the Government Code and must be withheld under section 552.101 of the Government Code.[2]

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

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[2]As our ruling is dispositive, we need not address the retirement system's arguments against its disclosure.

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

Paige Lay

Paige Lay
Assistant Attorney General
Open Records Division

PL/bhf

Ref: ID# 516908

Enc. Submitted documents

cc: Requestor
(w/o enclosures)

Mr. Dan Junell
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(w/o enclosures)