



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 16, 2014

Mr. Ronn P. Garcia
Counsel for the Lamesa Independent School District
Underwood Law Firm, P.C.
P.O. Box 16197
Lubbock, Texas 79490

OR2014-18623

Dear Mr. Garcia:

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# 541774.

The Lamesa Independent School District (the "district"), which you represent, received a request for ten categories of information. You state the district has released some of the responsive information to the requestor, and we understand the district will release additional information to the requestor upon his response to a cost estimate. You claim the submitted information is excepted from disclosure under sections 552.102, 552.117, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.102(a) of the Government Code excepts from disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Gov't Code § 552.102(a). The Texas Supreme Court has held section 552.102(a) excepts from disclosure the dates of birth of state employees in the payroll database of the Texas Comptroller of Public Accounts. *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex.*, 354 S.W.3d 336 (Tex. 2010). Upon review, we find the district must withhold the date of birth we have marked under section 552.102(a) of the Government

Code.¹ However, the remaining information is not excepted under section 552.102(a) and the district may not withhold it on that basis.

Section 552.102(b) excepts from disclosure higher education transcripts of professional public school employees, but does not except the employee's name, the courses taken, and the degree obtained from disclosure. Gov't Code § 552.102(b); *see also* Open Records Decision No. 526 (1989). We understand you to argue portions of the remaining information must be withheld under section 552.102(b). However, upon review, we find none of the information at issue consists of higher education transcripts of a professional public school employee. Therefore, the district may not withhold any of the remaining information under section 552.102(b) of the Government Code.

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 employee or official of a governmental body who requests this information be kept confidential under section 552.024 of the Government Code. *See* Gov't Code § 552.117(a)(1). Section 552.117 is also applicable to personal cellular telephone numbers, provided the cellular telephone service is not paid for by a governmental body. *See* Open Records Decision No. 506 at 5-6 (1988) (section 552.117 not applicable to cellular telephone numbers paid for by governmental body and intended for official use). Section 552.024(a-1) of the Government Code provides, "A school district may not require an employee or former employee of the district to choose whether to allow public access to the employee's or former employee's social security number." Gov't Code § 552.024(a-1). Thus, the district may only withhold under section 552.117 the home address and telephone number, emergency contact information, and family member information of a current or former employee or official of the district who requests this information be kept confidential under section 552.024. 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 be withheld under section 552.117(a)(1) only on behalf of a current or former employee or official 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. You have submitted copies of the election forms completed by the district employees whose information is at issue. Upon review, we find these individuals elected to keep their home address, home telephone number, and personal cellular telephone number confidential prior to the date of this request. Accordingly, the district must withhold the information we have marked under section 552.117(a)(1); however, the district may not withhold the cellular telephone number we have marked if the cellular telephone service is

¹As our ruling is dispositive for this information, we need not address your remaining arguments against its disclosure.

paid for by a governmental body.² Upon review, we find none of the remaining information constitutes the home address, home telephone number, or personal cellular telephone number of a district employee. Further, the election forms you submitted provide no means for the employees to request their family member information be withheld from disclosure. Thus, because the employees at issue did not elect confidentiality for their family member information, the district may not withhold it under section 552.117(a)(1). Accordingly, the district may not withhold any of the remaining information under section 552.117(a)(1) of the Government Code.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130. Accordingly, the district must withhold the driver's license information we have marked under section 552.130 of the Government Code. However, we find no portion of the remaining information consists of motor vehicle record information for the purposes of section 552.130, and the district may not withhold any of the remaining information on that basis.

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 member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c).³ *See id.* § 552.137(a)-(c). The e-mail addresses at issue are not excluded by subsection (c). Therefore, the district must withhold the personal e-mail addresses we have marked under section 552.137 of the Government Code, unless the owners affirmatively consent to their public disclosure.

Section 552.147(a-1) of the Government Code provides, "[t]he social security number of an employee of a school district in the custody of the district is confidential." *Id.* § 552.147(a-1). Upon review, we find the district must withhold the social security numbers of the district employees we have marked under section 552.147(a-1) of the Government Code.

In summary, the district must withhold the date of birth we have marked under section 552.102(a) of the Government Code. The district must withhold the information we have marked under section 552.117(a)(1); however, the district may not withhold the cellular telephone number we have marked if the cellular telephone service is paid for by a

²As our ruling is dispositive for this information, we need not address your remaining argument against its disclosure.

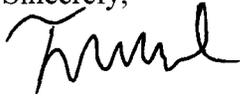
³The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

governmental body. The district must withhold the driver's license information we have marked under section 552.130 of the Government Code. The district must withhold the personal e-mail addresses we have marked under section 552.137 of the Government Code, unless the owners affirmatively consent to their public disclosure. The district must withhold the information we have marked under section 552.147(a-1) of the Government Code. The district must release the remaining information.

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

Sincerely,



Tim Neal
Assistant Attorney General
Open Records Division

TN/bhf

Ref: ID# 541774

Enc. Submitted documents

c: Requestor
(w/o enclosures)