



January 27, 2015

Ms. Ellen H. Spalding
Counsel for Klein Independent School District
Rogers, Morris & Grover, L.L.P.
5718 Westheimer Road, Suite 1200
Houston, Texas 77057

OR2015-01541

Dear Ms. Spalding:

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# 551438.

The Klein Independent School District (the "district"), which you represent, received a request for specified categories of information pertaining to district bus vendors, including police reports that involve school bus traffic accidents. The district states it has redacted social security numbers pursuant to section 552.147 of the Government Code.¹ The district also states it has released some of the requested information, but claims some of the submitted information is excepted from disclosure under sections 552.101, 552.102, 552.117, and 552.136 of the Government Code.² We have considered the claimed exceptions and reviewed the submitted representative sample of information.³

¹Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. *See* Gov't Code § 552.147(b).

²We understand the district to raise sections 552.117, 552.130, and 552.136 based on its markings.

³We 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 those records contain substantially different types of information than that submitted to this office.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. Section 552.101 encompasses section 58.007 of the Family Code, which makes confidential juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997. *See* Fam. Code § 58.007(c). Section 58.007(c) reads as follows:

Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

- (1) if maintained on paper or microfilm, kept separate from adult files and records;
- (2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and
- (3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapters B, D, and E.

Id. § 58.007(c). For purposes of Title 3 of the Family Code, a “child” is defined as a person ten years of age or older and under seventeen years of age when the conduct occurred. *Id.* § 51.02(2)(A). We note section 58.007(c) applies only to law enforcement records that involve a juvenile as a suspect, offender, or defendant, and not to law enforcement records that relate to a juvenile only as a complainant, victim, witness, or other involved party. Although you assert the information in Exhibit C is confidential under section 58.007, the suspect at issue in this information was not a person ten years of age or older and under seventeen years of age at the time of the offense. Therefore, Exhibit C does not consist of law enforcement records of a juvenile for purposes of section 58.007. *See id.* Thus, Exhibit C is not confidential under section 58.007(c) and the district may not withhold it under section 552.101 of the Government Code on that ground.

Section 552.101 of the Government Code excepts encompasses section 550.065 of the Transportation Code. The submitted information contains CR-3 accident report forms that were completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer’s accident report). Section 550.065(b) states that except as provided by subsection (c) or (e), accident reports are privileged and confidential. *See id.* § 550.065(b). Section 550.065(c)(4) provides for the release of accident reports to a person who provides two of the following three pieces of information: (1) the date of the accident; (2) the name of any person involved in the accident; and (3) the location of the accident. *Id.* § 550.065(c)(4). Under this provision, the Texas Department of Transportation or another governmental entity is required to release a copy of an accident report to a person who

provides the agency with two or more pieces of information specified by the statute.⁴ *Id.* The requestor has not provided the district with two of the three pieces of information. Thus, we agree the district must withhold the submitted CR-3 accident reports under section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code.⁵

Section 552.101 of the Government Code also encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. This office has found the following types of information are excepted from required public disclosure under common-law privacy: some kinds of medical information, *see* Open Records Decision No. 455 (1987); and personal financial information not relating to the financial transaction between an individual and a governmental body, *see* Open Records Decision Nos. 600 (1992), 545 (1990). Upon review, we find some of the remaining information, which we have marked, satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

You claim some of the remaining information is excepted from disclosure under sections 552.102(a) and 552.117(a)(1) of the Government Code. Section 552.102(a) 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). Section 552.117(a)(1) excepts from disclosure the home addresses and telephone numbers, emergency contact information, 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 of the Government Code. *Id.* § 552.117(a)(1). However, sections 552.102 and 552.117 are applicable only to information that the district holds in an employment context. The submitted information consists of law enforcement records of the district’s police department and, thus, we find the district does not maintain the information in an employment capacity. Therefore, the district may not withhold any of remaining information under section 552.102 or 552.117 but, instead, must release this information, including the remaining information you have redacted under section 552.117.

⁴Transp. Code § 550.0601 (“department” means Texas Department of Transportation).

⁵As our ruling is dispositive, we do not address your other arguments to withhold this information.

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. The district has redacted some motor vehicle record information under section 552.130 of the Government Code.⁶ We have marked a representative sample of additional motor vehicle record information in the remaining documents that the district must also withhold under section 552.130 of the Government Code.

Section 552.136 of the Government Code provides in part the following:

(a) In this section, "access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device 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.

(b) Notwithstanding 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(a)-(b). The district has redacted insurance policy numbers in accordance with section 552.136 of the Government Code.⁷ The district has also redacted student identification numbers on that same ground. However, you have provided no explanation as to how student identification numbers consist of access device numbers that are used to obtain money, goods, services, or any item of value, or used to initiate the transfer of funds. *See id.* §§ 552.136(a), .301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies). Therefore, the district may not withhold the student

⁶Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e).

⁷This office has determined an insurance policy number is an access device number for purposes of section 552.136. Open Records Decision No. 684 at 9 (2009). Section 552.136 of the Government Code permits a governmental body to withhold the information described in section 552.136(b) without the necessity of seeking a decision from this office. *See* Gov't Code § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See id.* § 552.136(d), (e).

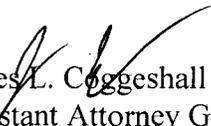
identification numbers in the remaining information under section 552.136 but, instead, must release them to the requestor.

To conclude, the district must withhold the submitted CR-3 accident reports under section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code. The district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The district must withhold the motor vehicle record information in the remaining documents, a representative sample of which we have marked, under section 552.130 of the Government Code. The district must release the remaining information, including the information you have redacted under section 552.117 of the Government Code and the student identification numbers you have redacted under section 552.136 of the Government Code in the remaining documents.

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,


James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/cbz

Ref: ID# 551438

Enc. Submitted documents

c: Requestor
(w/o enclosures)