



February 5, 2015

Ms. Cynthia Tynan  
Attorney and Public Information Coordinator  
Office of General Counsel  
The University of Texas System  
201 West Seventh Street  
Austin, Texas 78701

OR2015-02300

Dear Ms. Tynan:

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# 552820 (OGC No. 159149).

The University of Texas at Austin (the "university") received a request for (1) a list of persons provided or offered tickets, suite passes, or suite seats or tickets for specified university football games by the university's Office of the President or the Development Office during a specified time period; and (2) all photographs taken of and e-mails, text messages, and letters pertaining to guests provided tickets by the Office of the President or the Development Office. You state the university will release most of the responsive information to the requestor. You further state the university will redact information protected by section 552.117(a)(1) of the Government Code pursuant to section 552.024(c)(2) and personal e-mail addresses under section 552.137 pursuant to Open Records Decision No. 684 (2009).<sup>1</sup> You claim portions of the submitted information are

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<sup>1</sup>Section 552.024(c)(2) of the Government Code authorizes a governmental body to redact information protected by section 552.117(a)(1) of the Government Code without the necessity of requesting a decision under the Act if the current or former employee or official to whom the information pertains timely chooses not to allow public access to the information. *See* Gov't Code § 552.024(c)(2). Open Records Decision No. 684 serves as a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including personal e-mail addresses under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision. *See* ORD 684.

excepted from disclosure under sections 552.101 and 552.1235 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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. This section encompasses the doctrine of constitutional privacy, which protects two kinds of interests. *See Whalen v. Roe*, 429 U.S. 589, 599-600 (1977); *see also* Open Records Decision Nos. 600 at 3-5 (1992), 478 at 4 (1987), 455 at 3-7 (1987). The first is the interest in independence in making certain important decisions related to the “zones of privacy,” which include matters related to marriage, procreation, contraception, family relationships, and child rearing and education. *See Fadjo v. Coon*, 633 F.2d 1172 (5th Cir. 1981); *see also* ORD 455 at 3-7. The second constitutionally protected privacy interest is in freedom from public disclosure of certain personal matters. *See Ramie v. City of Hedwig Village, Tex.*, 765 F.2d 490 (5th Cir.1985); *see also* ORD 455 at 6-7. This aspect of constitutional privacy balances the individual’s privacy interest against the public’s interest in the information. *See* ORD 455 at 7. Constitutional privacy under section 552.101 is reserved for “the most intimate aspects of human affairs.” *Id.* at 8 (quoting *Ramie*, 765 F.2d at 492). You contend the identifying information of non-enrolled applicants is confidential under constitutional privacy. Upon review, we find the information at issue falls within the zones of privacy. Accordingly, the university must withhold the identifying information of applicants you marked under section 552.101 of the Government Code in conjunction with constitutional privacy.<sup>2</sup>

Section 552.1235 of the Government Code excepts from disclosure “[t]he name or other information that would tend to disclose the identity of a person, other than a governmental body, who makes a gift, grant, or donation of money or property to an institution of higher education[.]” Gov’t Code § 552.1235(a). For purposes of this exception, “institution of higher education” is defined by section 61.003 of the Education Code. *Id.* § 552.1235(c). Section 61.003 defines an “institution of higher education” as meaning “any public technical institute, public junior college, public senior college or university, medical or dental unit, public state college, or other agency of higher education as defined in this section.” Educ. Code § 61.003(8). Because section 552.1235 does not provide a definition of “person,” we look to the definition provided in the Code Construction Act. *See* Gov’t Code § 311.005. “Person” includes a corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity. *Id.* § 311.005(2). You state the information you marked identifies donors. To the extent the information at issue identifies a donor that has made a gift that has not been publicized, the university must withhold the donor’s identifying information under section 552.1235 of the Government Code in relation to that gift. However, to the extent the information at issue identifies a donor who has already been publicly identified for that

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<sup>2</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

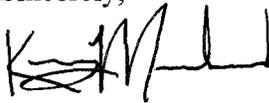
particular gift, the university may not withhold the donor's identifying information under section 552.1235, and the donor's identifying information in relation to that gift must be released.

In summary, the university must withhold the information you marked under section 552.101 of the Government Code in conjunction with constitutional privacy. To the extent the information you marked identifies a donor that has made a gift that has not been publicized, the university must withhold the donor's identifying information under section 552.1235 of the Government Code in relation to that gift. The university 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](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,



Kenny Moreland  
Assistant Attorney General  
Open Records Division

KJM/dls

Ref: ID# 552820

Enc. Submitted documents

c: Requestor  
(w/o enclosures)