



February 9, 2015

Ms. Angela Robinson  
Vice Chancellor for Administration and General Counsel  
Tarrant County College  
1500 Houston Street  
Fort Worth, Texas 76102-6524

OR2015-02465

Dear Ms. Robinson:

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# 552937.

Tarrant County College (the "college") received a request for information pertaining to the requestor, information pertaining to institutional research data requests for a specified period of time, a log of institutional research "Project Satisfaction Surveys" for a specified period of time, and notes from Chancellor's Executive Leadership Team meetings that mention internal research business or internal research personnel matters for a specified period of time.<sup>1</sup> You claim the submitted information is excepted from disclosure under sections 552.102 and 552.136 of the Government Code.<sup>2</sup> We have considered the exceptions you claim and reviewed the submitted information.

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<sup>1</sup>We note the college sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

<sup>2</sup>Although you raise section 552.024 of the Government Code, this section is not an exception to disclosure. *See* Gov't Code § 552.024.

Initially, we note you have submitted information pertaining only to a portion of the request. However, you have not submitted any information responsive to the remaining portions of the request. Although you state the college submitted a representative sample of the requested information, we find the submitted information is not representative of the other types of information to which the requestor seeks access. Please be advised this open records letter ruling applies to only the types of information you have submitted for our review. This ruling does not authorize the college to withhold any information that is substantially different from the type of information you submitted to this office. *See* Gov't Code § 552.302. Therefore, to the extent information responsive to the remaining portions of the request exists and was maintained by the college on the date it received the request, we assume the college has released it to the requestor. If the college has not released any such information, it must do so at this time. *Id.* §§ 552.301(a), .302; Open Records Decision No. 664 (2000) (noting that if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible under circumstances).

Section 552.139 of the Government Code provides, in part:

(a) Information is excepted from [required public disclosure] if it is information that relates to computer network security, to restricted information under Section 2059.055 [of the Government Code], or to the design, operation, or defense of a computer network.

(b) The following information is confidential:

(1) a computer network vulnerability report; [and]

(2) any other assessment of the extent to which data processing operations, a computer, a computer program, network, system, or system interface, or software of a governmental body or of a contractor of a governmental body is vulnerable to unauthorized access or harm, including an assessment of the extent to which the governmental body's or contractor's electronically stored information containing sensitive or critical information is vulnerable to alteration, damage, erasure, or inappropriate use[.]

Gov't Code § 552.139(a), (b)(1)-(2).<sup>3</sup> Section 2059.055 of the Government Code provides in part:

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

(b) Network security information is confidential under this section if the information is:

- (1) related to passwords, personal identification numbers, access codes, encryption, or other components of the security system of a state agency;
- (2) collected, assembled, or maintained by or for a governmental entity to prevent, detect, or investigate criminal activity; or
- (3) related to an assessment, made by or for a governmental entity or maintained by a governmental entity, of the vulnerability of a network to criminal activity.

*Id.* § 2059.055(b). We note the submitted information contains employee identification numbers. You inform us the identification numbers can be used as usernames to access the college's computer network. The submitted information also contains passwords used to access the college's computer network. Upon review, we find the identification numbers and passwords, which we have marked, must be withheld under section 552.139 of the Government Code.<sup>4</sup>

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). We understand you to assert the privacy analysis under section 552.102(a) is the same as the common-law privacy test under section 552.101 of the Government Code. Section 552.101 of the Government Code encompasses common-law privacy, which protects information if it (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). In *Hubert v. Harte-Hanks Texas Newspapers, Inc.*, 652 S.W.2d 546, 549-51 (Tex. App.—Austin 1983, writ ref'd n.r.e.), the court of appeals ruled the privacy test under section 552.102(a) is the same as the *Industrial Foundation* privacy test. However, the Texas Supreme Court has expressly disagreed with *Hubert's* interpretation of section 552.102(a) and held the privacy standard under section 552.102(a) differs from the *Industrial Foundation* test under section 552.101. *See Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex.*, 354 S.W.3d 336 (Tex. 2010). The supreme court also considered the applicability of section 552.102(a) and held it excepts from disclosure the dates of birth of state employees in the payroll database of the Texas Comptroller of Public Accounts. *See id.* at 348. Upon review, we find none of the

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<sup>4</sup>As our ruling is dispositive, we need not address your arguments against disclosure of this information.

remaining information is subject to section 552.102(a) of the Government Code, and the college may not withhold any of the remaining information on that basis.

Section 552.136 of the Government Code provides, “[n]otwithstanding any other provision of [the Act], 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(b); *see id.* § 552.136(a) (defining “access device”). This office has determined insurance policy numbers are access device numbers for purposes of section 552.136. *See* Open Records Decision No. 684 at 9 (2009). Upon review, we find you have not demonstrated how any of the remaining information consists of access device numbers for purposes of section 552.136. Accordingly, the college may not withhold any of the remaining information under section 552.136 of the Government Code.

In summary, the college must withhold the information we marked under section 552.139 of the Government Code. The college 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,



Paige Thompson  
Assistant Attorney General  
Open Records Division

PT/dls

Ref: ID# 552937

Enc. Submitted documents

c: Requestor  
(w/o enclosures)