



February 19, 2015

Ms. Sharon J. Wright  
Counsel for Kilgore College  
Coghlan Crowson, L.L.P.  
P.O. Box 2665  
Longview, Texas 75606

OR2015-03341

Dear Ms. Wright:

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# 554003 (KC ID No. 2015-20-KC).

Kilgore College (the "college"), which you represent, received a request for all e-mail communications between a named individual and any Kilgore College e-mail address. We understand the college has released some information to the requestor. Although you take no position as to whether the submitted information is excepted from public disclosure under the Act, you inform us the release of the submitted information may implicate the privacy interests of the named individual. Accordingly, you state, and provide documentation showing, you notified this individual of the request for information and of his right to submit comments to this office explaining why the submitted information should not be released. *See Gov't Code § 552.304* (permitting interested third party to submit to attorney general reasons why requested information should or should not be released). We have received comments from the named individual's attorney. We have reviewed the submitted information and the submitted argument.

Based on the submitted argument, we understand the named individual's attorney to argue that the submitted information is protected under common-law privacy. Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. Section 552.101 encompasses the doctrine of 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). 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. Upon review, we find none of the submitted information is highly intimate or embarrassing and of no legitimate public interest. Therefore, the college may not withhold any of the submitted information under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.137 of the Government Code provides, "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure under [the Act]," unless the owner of the e-mail address has affirmatively consented to its release or the e-mail address is specifically excluded by subsection (c).<sup>1</sup> Gov't Code § 552.137(a)-(c). The e-mail addresses at issue are not excluded by subsection (c). Thus, the college must withhold the e-mail addresses we have marked and indicated under section 552.137 of the Government Code, unless their owners affirmatively consent to their public disclosure.

In summary, the college must withhold the e-mail addresses we have marked and indicated under section 552.137 of the Government Code, unless their owners affirmatively consent to their public disclosure. 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,



Alley Latham  
Assistant Attorney General  
Open Records Division

AKL/dls

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<sup>1</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).

Ref: ID# 554003

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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