



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 26, 2015

Ms. Sandra Garcia  
Assistant General Counsel  
Office of General Counsel  
Houston Community College  
3100 Main Street  
Houston, Texas 77002

OR2015-05753

Dear Ms. 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# 557569.

The Houston Community College Office of General Counsel (the "college") received a request for all requests for payment from any entity that has billed the college for any credit usage by a named individual from June 1, 2014, until November 31, 2014. We understand you have redacted some information subject to section 552.136 of the Government Code.<sup>1</sup> You claim the submitted information is excepted from disclosure under sections 552.103 and 552.107 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we must address the college's procedural obligations under the Act. Pursuant to section 552.301(b), a governmental body must ask for a decision from this office and state the exceptions that apply within ten business days of receiving the written request. Gov't Code § 552.301(b). You state the college initially received the request for information on

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<sup>1</sup>Section 552.136(c) 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).

December 12, 2014. You state the college was closed for the winter break holiday from December 22, 2014, until January 2, 2015. This office does not count the date the request was received or holidays for the purpose of calculating a governmental body's deadlines under the Act. Thus, the college's ten-business-day deadline was January 9, 2015; however, the envelope in which the college requested a ruling from this office bears postmarks of January 9, 2015, and January 20, 2015, and was received by this office on January 23, 2015. *See id.* § 552.308 (describing rules for calculating submission dates of documents sent via first class United States mail, common or contract carrier, or interagency mail). Because the envelope in which the college requested a ruling bears two postmarks, one of which was dated after the 10-business-day deadline prescribed by section 552.301, we are unable to determine whether the college timely requested a ruling. Therefore, we find the college failed to comply with the procedural requirements of section 552.301 of the Government Code in requesting this decision.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the requirements of section 552.301 results in the legal presumption the requested information is public and must be released unless a compelling reason exists to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); *see also* Open Records Decision No. 630 (1994). Generally, a compelling reason to withhold information exists where some other source of law makes the information confidential or where third party interests are at stake. Open Records Decision No. 150 at 2 (1977). Although you raise sections 552.103 and 552.107 of the Government Code for the submitted information, these exceptions are discretionary in nature. These sections serve only to protect a governmental body's interests, and may be waived; as such, they do not constitute compelling reasons to withhold information. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); Open Records Decision Nos. 676 at 6 (2002) (section 552.107(1) is not other law for purposes of section 552.022), 665 at 2 n.5 (2000) (discretionary exceptions generally). Thus, the college has waived its claims under sections 552.103 and 552.107 for the submitted information. However, we note portions of the submitted information are subject to section 552.136 of the Government Code.<sup>2</sup> As this section can provide a compelling reason to withhold information, we will consider the applicability of this exception to the submitted information.

Section 552.136(b) 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

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<sup>2</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).

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”). Thus, the college must withhold the partial credit card account numbers within the submitted information under section 552.136 of the Government Code.

In summary, the college must withhold the partial credit card account numbers within the submitted information under section 552.136 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,

  
Joseph Behnke  
Assistant Attorney General  
Open Records Division

JB/som

Ref: ID# 557569

Enc. Submitted documents

c: Requestor  
(w/o enclosures)