



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 15, 2015

Mr. Rusty Meurer  
Counsel for the Laredo Community College  
Kazen, Meurer & Perez L.L.P.  
P.O. Box 6237  
Laredo, Texas 78042-6237

OR2015-07298

Dear Mr. Meurer:

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# 560204.

The Laredo Community College (the "college"), which you represent, received four requests for a specified police report involving two named individuals. Although you take no position regarding the release of the submitted information, you state release may implicate the privacy interests of the named individuals. Accordingly, you notified the named individuals of the right to submit written comments to this office stating reasons why the information should or should not be released. *See* Gov't Code § 552.304 We have received comments from one of the named individuals.<sup>1</sup> We have reviewed the submitted arguments and the submitted information.

Initially, we note the submitted information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2014-21617 (2014). In that ruling, we held the college must withhold the information we marked under section 552.130 of the Government Code and release the remaining information. However,

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<sup>1</sup>As of the date of this letter, we have not received comments from the other named individual.

we have received arguments from one of the named individuals, in which that individual argues the submitted information is excepted from disclosure under sections 552.101, 552.102, and 552.135 of the Government Code. Section 552.007 of the Government Code provides if a governmental body voluntarily releases information to any member of the public, the governmental body may not withhold such information from further disclosure, unless its public release is expressly prohibited by law or the information is confidential by law. *See* Gov't Code § 552.007; Open Records Decision No. 518 at 3 (1989); *see also* Open Records Decision No. 400 (1983) (governmental body may waive right to claim permissive exceptions to disclosure under the Act, but it may not disclose information made confidential by law). Accordingly, pursuant to section 552.007, the college may not now withhold the previously released information unless release of such information is expressly prohibited by law or the information is confidential by law. Sections 552.101, 552.102, and 552.135 can make information confidential under the Act. Therefore, we find the circumstances on which Open Records Letter No. 2014-21617 was based have changed. Thus, the college may not rely on Open Records Letter No. 2014-21617 as a previous determination and we will address the named individual's arguments for the submitted information. *See* Open Records Decision No. 673 at 6-7 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes information is or is not excepted from disclosure).

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 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. Upon review, we find the named individual has failed to demonstrate how the submitted information is highly intimate or embarrassing and not of legitimate public interest. Therefore, the college may not withhold any portion of the submitted information under section 552.101 in conjunction with common-law privacy.

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). The Texas Supreme Court held section 552.102(a) excepts from disclosure the dates of birth of state employees in the payroll database of the Texas Comptroller of Public Accounts. *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex.*, 354 S.W.3d 336 (Tex. 2010). Upon review, we find no portion of the

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

Section 552.135 of the Government Code provides the following:

(a) "Informer" means a student or former student or an employee or former employee of a school district who has furnished a report of another person's or persons' possible violation of criminal, civil, or regulatory law to the school district or the proper regulatory enforcement authority.

(b) An informer's name or information that would substantially reveal the identity of an informer is excepted from [required public disclosure].

Gov't Code § 552.135. By its terms, section 552.135 applies to only public school districts and not to colleges or universities. *See Ex parte Torres*, 943 S.W.2d 469, 472 (Tex. Crim. App. 1997) (stating if language of statute is not ambiguous, court must give effect to plain meaning of its words unless doing so would lead to absurd results). Accordingly, we find the named individual has failed to demonstrate the applicability of section 552.135 of the Government Code, and the college may not withhold any of the submitted information under section 552.135 of the Government Code.

We note some of the submitted information is subject to sections 552.1175 and 552.130 of the Government Code.<sup>2</sup> Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential. Gov't Code § 552.1175. We have marked a date of birth of a peace officer that is not held in an employment capacity by the college. To the extent the peace officer elects to restrict access to the information we have marked in accordance with section 552.1175(b), the college must withhold this information under section 552.1175 of the Government Code. To the extent the peace officer whose information is at issue does not elect to restrict access to this information in accordance with section 552.1175(b), the college may not withhold it under section 552.1175 of the Government Code.

Section 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle operator's license or driver's license or a motor vehicle title or registration issued by a Texas agency, or an agency of another state or country. *See id.* § 552.130(a)(1)-(2). Upon review, we find the college must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

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<sup>2</sup>The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

In summary, the college must withhold the date of birth we have marked under section 552.1175 of the Government Code to the extent the peace officer elects to restrict access to that information in accordance with section 552.1175(b) of the Government Code. The college must withhold the motor vehicle record information we have marked under section 552.130 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,



Kristi L. Godden  
Assistant Attorney General  
Open Records Division

KLK/cz

Ref: ID# 560204

Enc. Submitted documents

c: 4 Requestors  
(w/o enclosures)

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