



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 10, 2015

Ms. Nancy Nelson
Associate Vice President for Employee Relations
El Paso Community College
P.O. Box 20500
El Paso, Texas 79998-0500

OR2015-18915

Dear Ms. Nelson:

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# 578585.

The El Paso Community College (the "college") received a request for specified information pertaining to the interviews for a specified job position. We note, although the college raises section 552.022 of the Government Code, section 552.022 is not an exception to disclosure. Rather, section 552.022 enumerates categories of information that are not excepted from disclosure unless they are made confidential under the Act or other law. *See Gov't Code* § 552.022. Nevertheless, we have reviewed the submitted information and considered the applicability of any mandatory exceptions to the submitted information.¹

Initially, we note some of the submitted information is not responsive to the present request because it was created after the date of the present request for information. This ruling does not address the public availability of the non-responsive information, which we have marked, and the college need not release it in response to this request.

Section 552.117(a)(2) of the Government Code excepts from disclosure the home address, home telephone number, emergency contact information, social security number, and family member information of a peace officer, regardless of whether the peace officer complies with

¹The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. *See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).*

sections 552.024 or 552.1175 of the Government Code. *Id.* § 552.117(a)(2). We note section 552.117 also encompasses a personal cellular telephone number, unless the cellular service is paid for by a governmental body. *See* Open Records Decision No. 506 at 5-7 (1988) (statutory predecessor to section 552.117 not applicable to cellular telephone numbers provided and paid for by governmental body and intended for official use). Section 552.117(a)(2) applies to peace officers as defined by article 2.12 of the Code of Criminal Procedure. However, section 552.117(a)(2) generally does not apply to applicants for employment. *See* Open Records Decision No. 455 (1987) (statutory predecessor to section 552.117 does not except information pertaining to applicants who are not employees). Upon review, we find the college must withhold the cellular telephone number we have marked under section 552.117(a)(2) of the Government Code; however, the college may only withhold the marked cellular telephone number if the cellular telephone service is not paid for by a governmental body. Furthermore, in this instance, we are unable to determine whether the applicants at issue are employees of the college; therefore, we must rule conditionally on the applicants' personal information. If the applicants at issue are employed by the college, then the college must withhold the additional information we have marked under section 552.117(a)(2) of the Government Code. Conversely, if the applicants at issue are not employed by the college, their information may not be withheld under section 552.117(a)(2) of the Government Code.

If the applicants at issue are not employed by the college, their information at issue may be protected by section 552.1175 of the Government Code. Section 552.1175 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. Section 552.1175 applies, in part, to "peace officers as defined by Article 2.12, Code of Criminal Procedure[.]" *Id.* § 552.1175(a)(1). Thus, to the extent the applicants' information we have marked relates to licensed peace officers who elect to restrict access to their information in accordance with section 552.1175(b), it must be withheld from disclosure under section 552.1175 of the Government Code. If the applicants whose information is at issue are not licensed peace officers or do not elect to restrict access to the information in accordance with section 552.1175(b), the marked information may not be withheld under section 552.1175.

Section 552.137 of the Government Code excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body" unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *Id.* § 552.137(a)-(c). The e-mail addresses at issue are not a type specifically excluded by section 552.137(c) of the Government Code. Accordingly, the college must withhold the e-mail addresses we have marked under section 552.137 of the Government Code, unless the owners of the e-mail addresses affirmatively consent to disclosure.

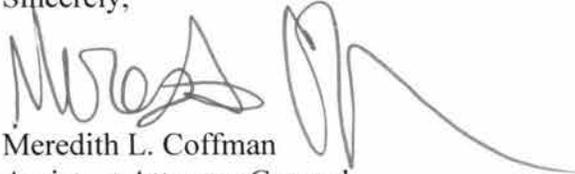
In summary, the college must withhold the cellular telephone number we have marked under section 552.117(a)(2) of the Government Code; however, the college may only withhold the

marked cellular telephone number if the cellular telephone service is not paid for by a governmental body. If the applicants at issue are employed by the college, then the college must withhold the additional information we have marked under section 552.117(a)(2) of the Government Code. If the applicants at issue are not employed by the college, are licensed peace officers, and elect to restrict access to their information in accordance with section 552.1175(b), the information we have marked must be withheld from disclosure under section 552.1175 of the Government Code. The college must withhold the e-mail addresses we have marked under section 552.137 of the Government Code, unless the owners of the e-mail addresses affirmatively consent to disclosure. The remaining information must be released.

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, 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,

A handwritten signature in black ink, appearing to read 'Meredith L. Coffman', with a long, sweeping horizontal line extending to the right.

Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/bhf

Ref: ID# 578585

Enc. Submitted documents

c: Requestor
(w/o enclosures)