



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

November 10, 2015

Mr. Ronny H. Wall  
Associate General Counsel  
Texas Tech University System  
P.O. Box 42021  
Lubbock, Texas 79409-2021

OR2015-23602

Dear Mr. Wall:

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# 586666.

The Texas Tech University System (the "system") received a request for the responses to a system request for qualifications for brokerages services for the placement of student accident and health insurance coverage, as well as the evaluations of each respondent's submission. Although you take no position as to whether the submitted information is excepted under the Act, you state release of this information may implicate the proprietary interests of Academic Health Plans; Arthur J. Gallagher; Mercer; Wells Fargo Insurance Services USA; and Wills of Wisconsin. Accordingly, you state, and provide documentation showing, you notified these third parties of the request for information and of their rights to submit arguments to this office as to why the information at issue should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have reviewed the submitted information.

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from any

of the third parties explaining why the submitted information should not be released. Therefore, we have no basis to conclude any of the third parties have protected proprietary interests in the submitted information. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, the system may not withhold the submitted information on the basis of any proprietary interest the third parties may have in the information.

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.”<sup>1</sup> 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. Upon review, we find the system must withhold the insurance policy numbers contained in the submitted information under section 552.136 of the Government Code.

We note some of the remaining information may be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; *see* Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit.

In summary, the system must withhold the insurance policy numbers contained in the submitted information under section 552.136 of the Government Code. The system must release the remaining information; however, the system may only release information subject to copyright in accordance with copyright law.

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/>

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision No. 481 (1987), 480 (1987), 470 (1987).

[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,



Ramsey A. Abarca  
Assistant Attorney General  
Open Records Division

RAA/dls

Ref: ID# 586666

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. Terry Lyons  
President & CEO  
Academic Health Plans  
3500 William D. Tate Avenue, Suite 200  
Grapevine, Texas 76051  
(w/o enclosures)

Ms. Angela Nguyen  
Account Executive  
Arthur J. Gallagher  
Gallagher Student Health & Special Risk  
500 Victory Road  
Quincy, Massachusetts 02171  
(w/o enclosures)

Ms. Lesley Gagnon  
Mercer  
2405 Grand Boulevard, Suite 900  
Kansas City, Missouri 64108  
(w/o enclosures)

Mr. John Breckenridge  
Senior Vice President  
Student Insurance Center of Excellence  
Wells Fargo Insurance Services USA, Inc.  
10940 White Rock Road, Second Floor  
Rancho Cordova, California 95670  
(w/o enclosures)

Mr. David J. Radke  
Executive Vice President  
Wills of Wisconsin  
400 North Executive Drive, Suite 300  
Brookfield, Wisconsin 53005  
(w/o enclosures)