



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 28, 2016

Ms. Andrea L. Mooney
Counsel for the Greenwood Independent School District
Eichelbaum, Wardell, Hansen, Powell & Mehl, P.C.
5300 Democracy Drive, Suite 200
Plano, Texas 75024

OR2016-02174

Dear Ms. Mooney:

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# 595747.

The Greenwood Independent School District (the "district"), which you represent, received a request for the complete personnel file of the requestor's client, all documents related to any investigation of alleged misconduct by the requestor's client, and all documents concerning the requestor's client sent to the Texas Education Agency or the State Board for Educator Certification by the district. You claim the submitted information is excepted from disclosure under section 552.135 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the district has only submitted information relating to an investigation of alleged misconduct by the requestor's client. We assume, to the extent any information responsive to the remainder of the request existed on the date the district received the request, the district has released it. If the district has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.006, .301, .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

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 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. Because the legislature limited the protection of section 552.135 to the identity of a person who reports a possible violation of “law,” a school district that seeks to withhold information under the exception must clearly identify to this office the specific civil, criminal, or regulatory law that is alleged to have been violated. *See id.* § 552.301(e)(1)(A). Additionally, individuals who provide information in the course of the investigation, but do not report a violation of law are not informants for purposes of section 552.135 of the Government Code.

The district claims the submitted information reveals the identities of informers who reported a possible violation of criminal, civil, or regulatory law to the district. Upon review, we find the district must withhold the information we have marked under section 552.135 of the Government Code. However, the district has not demonstrated the remaining information identifies an informer for the purposes of section 552.135. Therefore, we find the district may not withhold the remaining information under section 552.135 of the Government Code.

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[.]”¹ *Id.* § 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 the district must withhold the dates of birth we have marked under section 552.102(a) of the Government Code.

We note some of the remaining information may be subject to section 552.117(a)(1) of the Government Code, which excepts from disclosure the home addresses and telephone numbers, emergency contact information, social security numbers, and family member information of current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024 of the Government Code, except as provided by section 552.024(a-1). *See* Gov’t Code §§ 552.117(a)(1), .024. Section 552.024(a-1) of the Government Code provides, “A school district may not require an employee or former employee of the district to choose whether to allow public access to the employee’s or former employee’s social security number.” *Id.* § 552.024(a-1). Whether

¹The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body. Open Records Decision No. 481 (1987), 480 (1987), 470 (1987).

a particular item of information is protected by section 552.117(a)(1) must be determined at the time of the governmental body's receipt of the request for the information. *See* Open Records Decision No. 530 at 5 (1989). Thus, information may be withheld under section 552.117(a)(1) only on behalf of a current or former employee or official who made a request for confidentiality under section 552.024 prior to the date of the governmental body's receipt of the request for the information. Information may not be withheld under section 552.117(a)(1) on behalf of a current or former employee or official who did not timely request under section 552.024 the information be kept confidential. Therefore, to the extent the individual at issue timely requested confidentiality under section 552.024 of the Government Code, the district must withhold the information we have marked under section 552.117(a)(1) of the Government Code. To the extent the individual at issue did not timely request confidentiality under section 552.024, the district may not withhold the marked information under section 552.117(a)(1) of the Government Code.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130(a). Upon review, we find the district must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

Section 552.147(a-1) of the Government Code provides, "[t]he social security number of an employee of a school district in the custody of the district is confidential." *Id.* § 552.147(a-1). Thus, section 552.147(a-1) makes the social security numbers of school district employees confidential, without such employees being required to first make a confidentiality election under section 552.024 of the Government Code. *Id.* § 552.024(a-1) (school district may not require employee or former employee of district to choose whether to allow public access to employee's or former employee's social security number). Reading sections 552.024(a-1) and 552.147(a-1) together, we conclude section 552.147(a-1) makes confidential the social security numbers of both current and former school district employees. Therefore, the district must withhold the information we have marked under section 552.147(a-1) of the Government Code.

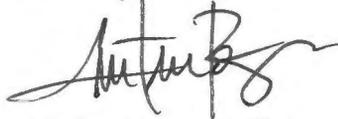
In summary, the district must withhold the information we have marked under section 552.135 of the Government Code. The district must withhold the dates of birth we have marked under section 552.102(a) of the Government Code. To the extent the individual at issue timely requested confidentiality under section 552.024 of the Government Code, the district must withhold the information we have marked under section 552.117(a)(1) of the Government Code. The district must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. The district must withhold the

information we have marked under section 552.147(a-1) of the Government Code. The district must release the remaining information.²

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,



Cristian Rosas-Grillet
Assistant Attorney General
Open Records Division

CRG/akg

Ref: ID# 595747

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²We note the requestor has a right of access beyond that of the general public to some of the information being released that pertains to his client, which is normally excepted from disclosure under section 552.101 of the Government Code in conjunction with common-law privacy. See Gov't Code § 552.023(a); ORD 481 at 4.