



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 27, 2016

Ms. Becky N. Rangel
Legal Services Specialist
Humble Independent School District
P.O. Box 2000
Humble, Texas 77347-2000

OR2016-12193

Dear Ms. Rangel:

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# 618543.

The Humble Independent School District (the "district") received two requests for a list of specified information related to all district employees. You state the district does not maintain information responsive to a portion of the request.¹ You claim some of the submitted information is excepted from disclosure under sections 552.102 and 552.117 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

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). Accordingly, the district must

¹The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

withhold the employees' dates of birth within the submitted information under section 552.102(a) of the Government Code.²

Section 552.117(a)(1) of the Government Code excepts from disclosure the home address and telephone number, emergency contact information, social security number, and family member information of a current or former employee or official of a governmental body who requests this information be kept confidential under section 552.024 of the Government Code. *See* Gov't Code § 552.117(a)(1). We note a post office box number is not a "home address" for purposes of section 552.117(a). *See* Open Records Decision No. 622 at 4 (1994) (legislative history makes clear that purpose of Gov't Code § 552.117 is to protect public employees from being harassed at home). Whether 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 district employees whose information is at issue timely requested confidentiality under section 552.024 of the Government Code, the district must withhold the employees' home addresses and telephone numbers under section 552.117(a)(1) of the Government Code; however, the district may not withhold the post office box numbers within the submitted information. Conversely, to the extent the district employees at issue did not timely request confidentiality under section 552.024, the district may not withhold their information under section 552.117(a)(1).

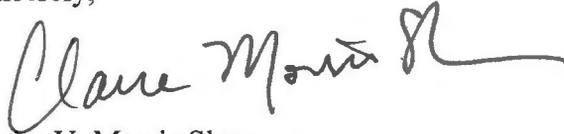
In summary, the district must withhold the employees' dates of birth within the submitted information under section 552.102(a) of the Government Code. To the extent the district employees whose information is at issue timely requested confidentiality under section 552.024 of the Government Code, the district must withhold the employees' home addresses and telephone numbers under section 552.117(a)(1) of the Government Code; however, the district may not withhold the post office box numbers within the submitted information. The district 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.

²As our ruling is dispositive for this information, we need not address your remaining argument against its disclosure.

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 "Claire Morris Sloan", with a long horizontal flourish extending to the right.

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 618543

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)