



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 26, 2016

Ms. Ana Vieira Ayala  
Senior Attorney & Public Information Coordinator  
The University of Texas System  
201 West Seventh Street, Suite 600  
Austin, Texas 78701-2901

OR2016-16782

Dear Ms. Ayala:

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# 622010 (OGC# 169714).

The University of Texas Southwestern Medical Center (the "university") received a request for information pertaining to university employees. You state you have released some responsive information. You state you will redact social security numbers under 552.147(b) of the Government Code.<sup>1</sup> You assert some of the submitted information is not subject to the Act. You claim some of the submitted information is excepted from disclosure under section 552.102 of the Government Code. We have considered your arguments and reviewed the submitted representative sample of information.<sup>2</sup>

---

<sup>1</sup>Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147(b).

<sup>2</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

The Act is applicable only to “public information.” Gov’t Code § 552.021. Section 552.002(a) of the Government Code defines “public information” as

information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

(1) by a governmental body;

(2) for a governmental body and the governmental body:

(A) owns the information;

(B) has a right of access to the information; or

(C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or

(3) by an individual officer or employee of a governmental body in the officer’s or employee’s official capacity and the information pertains to official business of the governmental body.

*Id.* § 552.002(a). Section 552.002(a-1) also provides the following:

Information is in connection with the transaction of official business if the information is created by, transmitted to, received by, or maintained by an officer or employee of the governmental body in the officer’s or employee’s official capacity, or a person or entity performing official business or a governmental function on behalf of a governmental body, and pertains to official business of the governmental body.

*Id.* § 552.002(a-1). Thus, virtually all of the information in a governmental body’s physical possession constitutes public information and, thus, is subject to the Act. *Id.* § 552.002(a)(1); *see* Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988). The university states the submitted information contains employee identification numbers of university employees. In Open Records Decision No. 581 (1990), this office determined certain computer information, such as source codes, documentation information, and other computer programming, that has no significance other than its use as a tool for the maintenance, manipulation, or protection of public property is not the kind of information made public under section 552.021 of the Government Code. The university states these computer-generated numbers provide administrative access to the university’s computer system, but are not used as computer log-on information. Based on these representations and

our review, we agree the employee identification numbers do not constitute public information for the purposes of section 552.002. Thus, the employee identification numbers are not subject to the Act, and the university is not required to release them in response to the request for 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). Upon review, we find the university must withhold the university employees’ dates of birth under section 552.102(a) of the Government Code.

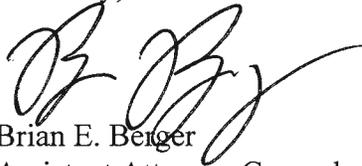
In summary, the employee identification numbers are not subject to the Act, and the university is not required to release them in response to the request for information. The university must withhold the university employees’ dates of birth under section 552.102(a) of the Government Code. The remaining information must be released.

Finally, the university asks this office to issue a previous determination permitting the university to withhold the dates of birth of current and former employees of the university when the dates of birth are held in an employment context under section 552.102 of the Government Code. *See* Gov’t Code § 552.301(a) (allowing governmental body to withhold information subject to previous determination); Open Records Decision No. 673 (2001). After due consideration, we have decided to grant the university’s request on this matter. Therefore, this letter ruling authorizes the university to withhold the dates of birth of current and former university employees when the dates of birth are held in an employment context under section 552.102 of the Government Code. We note the right to privacy is a personal right that lapses at an individual’s death. *See Moore v. Charles B. Pierce Film Enters., Inc.*, 589 S.W.2d 489, 491 (Tex. App.—Texarkana 1979, writ ref’d n.r.e.); *see also* Open Records Decision Nos. 620 (1993), 272 (1981), 192 (1978). Therefore, this previous determination authorizes the university to withhold dates of birth of living current and former employees of the university. This previous determination is not applicable to dates of birth belonging to deceased former employees of the university. We also note a person or a person’s authorized representative has a special right of access under section 552.023 of the Government Code to information that is protected from public disclosure by laws intended to protect the person’s privacy interests. *See* Gov’t Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Therefore, this previous determination is not applicable to a date of birth requested by a person or the authorized representative of a person whose date of birth is at issue. So long as the elements of law, fact, and circumstances do not change so as to no longer support the findings set forth above, the university need not ask for a decision from this office again with respect to this type of information. *See* ORD 673

at 7-8 (listing elements of second type of previous determination under Gov't Code § 552.301(a)).

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,

A handwritten signature in black ink, appearing to read 'B. Berger', with a long horizontal flourish extending to the right.

Brian E. Berger  
Assistant Attorney General  
Open Records Division

BB/eb

Ref: ID# 622010

Enc. Submitted documents

c: Requestor  
(w/o enclosures)