



Texas Association of School Boards

Legal Services

P.O. Box 400 • Austin, Texas 78767-0400 • 512.467.3610 • 800.580.5345 • legal.tasb.org • legal@tasb.org

Serving Texas Schools Since 1949

Texas Public Information Act Commonly Requested Personal Information

Published online in [TASB School Law eSource](#)

The Texas Public Information Act (PIA), codified at Chapter 552 of the Texas Government Code, governs the public's right to request access to information of governmental bodies. This article reviews the confidentiality of frequently requested categories of personal information of school district employees and board members. For basic principles of the PIA and required procedures for withholding or redacting protected information, see TASB Legal Services' [Texas Public Information Act—Basic Principles of the PIA](#).

Q: What is considered public information about a school district employee?

A: *Public information* is specifically defined by the PIA. Tex. Gov't Code § 552.002. The following categories of personal information about district employees are generally considered to be information that may not be withheld from public disclosure:

- Name
- Sex
- Ethnicity
- Title (position held)
- Salary
- Dates of employment

Tex. Gov't Code § 552.022(a).

The district may generally release this information without seeking a ruling from the attorney general, unless a court order, judicial opinion, or a law other than the PIA makes the information confidential.

Q: What is considered public information about a school district board member?

A: The following categories of information related to a district board member are generally considered to be information that may not be withheld from public disclosure:

- Name of each board member and the final record of voting on all proceedings in the district
- Board policy statements or interpretations adopted or issued by the board
- Final orders issued in the adjudication of complaints before the board
- Candidate applications for a place on an election ballot (excluding the date of birth, as explained further below)
- Candidate campaign contributions and financial reports

Tex. Gov't Code § 552.022(a); Tex. Elec. Code §§ 141.035; 254.031, .0402, .061, .091.

The district may generally release this information without seeking a ruling from the attorney general, unless a court order, judicial opinion, or a law other than the PIA makes the information confidential.

Q: What personal information about both school district employees and board members is confidential?

A: Common categories of personal information made confidential by law that a district may not release to the public and must seek a ruling from the attorney general to withhold from public disclosure include:

- **Dates of birth.** The date of birth of a district employee, board member, or a member of the public, including employment applicants and board candidate applicants, is confidential and excepted from public disclosure.

Employee dates of birth held by the district in the employment context are protected by section 552.102(a) of the Texas Government Code. *Tex. Comptroller of Pub. Accounts v. Att'y Gen. of Tex.*, 354 S.W.3d 336, 348 (Tex. 2010). Confidentiality under section 552.102(a) applies to both current and former employees. Att'y Gen. Op. No. JM-229 (1984).

Dates of birth of board members and applicants to the district are protected by common-law right of privacy in conjunction with Section 552.101 of the Texas Government Code, which excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Tex. Gov't Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The dates of

birth of public citizens are protected by the common-law right of privacy pursuant to Section 552.101. *See Paxton v. City of Dallas*, No. 03-13-00546-CV, 2015 WL 3394061, at *3 (Tex. App.—Austin May 22, 2015, pet. denied) (mem. op.).

The district may seek to withhold dates of birth from public disclosure by requesting a ruling from the attorney general about whether the information may be redacted or withheld. Additionally, the district may seek to obtain a previous determination ruling from the attorney general to apply to all future requests for this category of information. Tex. Gov't Code § 552.301; *see, e.g.*, Tex. Att'y Gen. OR2017-01171 (2017) (granting to school district a previous determination ruling to permit the district to withhold public citizens' dates of birth under Section 552.101 of the Texas Government Code in conjunction with common-law privacy without asking for a decision from the attorney general again for dates of birth of public citizens so long as the elements of law, fact, and circumstances do not change).

Some categories of personal information are specifically made confidential by the PIA and may be automatically withheld or redacted without requesting a ruling from the attorney general if the district provides a required notice form from the attorney general to the requestor. Tex. Gov't Code §§ 552.024, .117, .1175, .130, .136, .138. These categories of confidential personal information include:

- **Dates of birth of certain individuals.** If a date of birth belongs to one of the enumerated individuals listed under Texas Government Code section 552.1175, which includes peace officers, current or former prosecutors or judges, and various criminal and juvenile justice employees, then those covered individuals may request their dates of birth be kept confidential. In that case, a ruling from the attorney general is not necessary prior to withholding or redacting the dates of birth from disclosure as long as the district provides a requestor with the required notice form available from the attorney general's website. Tex. Gov't Code § 552.1175. See more on the required notice forms below.
- **Certain personal information about certain individuals employed by the district.** Any of the enumerated individuals under Texas Government Code section 552.117, including a former or current district employee or board member, may complete a confidentiality selection form within 14 days of employment, or election or appointment, to request withholding of his or her home address, home telephone number, emergency contact information, and information revealing the existence of family members. If the confidentiality selection form is completed prior to a district's receipt of a request for this information, then the district may withhold or redact the information without requesting a ruling from the attorney general so long as the district also provides to a requestor the requisite notice form from the attorney general's website. Tex. Gov't Code §§ 552.024, .117.

The only category of information that does not require selection of confidentiality is a district employee's social security number, which can be automatically withheld or redacted without seeking a ruling from the attorney general and without providing a requestor any notice forms. Tex. Gov't Code §§ 552.024(a-1), .147(a-1). See more on social security numbers below.

- **Certain personal information about certain individuals held by the district in any capacity.** The district may not disclose the home address, home telephone number, date of birth, social security number, emergency contact information, and information that reveals the existence of family members of any enumerated individual under Texas Government Code section 552.1175, including former or current peace officers, judges, prosecutors, other criminal or juvenile justice workers, and Texas military members, if the individual chooses confidentiality. A form electing confidentiality is still required, but it may be completed after the district receives a request for this information. The district must also provide a requestor a required notice form, available from the attorney general's website. Tex. Gov't Code § 552.1175.
- **Driver's records.** Driver's license or permit numbers, class, restrictions, expiration dates, vehicle identification numbers and license plate numbers are all considered information made confidential from public disclosure by Texas Government Code section 552.130, unless it is information provided for a Form CR-3 accident report governed by Section 550.065 of the Texas Transportation Code. Tex. Gov't Code §§ 552.130, 550.065. A district may redact or withhold this information without requesting a ruling from the attorney general, but must provide a requestor the requisite notice form, available on the attorney general's website. In limited circumstances, Government Code section 552.130(a) does not prohibit the district from publicly disclosing a manufacturer's permanent vehicle identification number if the number is not accompanied by or identified with any personal information about any individual. Tex. Att'y Gen. Op. No. GA-673 (2008).
- **Access device numbers.** A credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a school district is confidential under the PIA and does not require an attorney general's ruling to withhold or redact, so long as the district provides to a requestor the required form notice from the attorney general. An *access device* is defined by the PIA as a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to obtain anything of value or initiate a transfer of funds. A district may redact or withhold this information without requesting a ruling from the attorney general, but must provide a requestor the requisite notice form, available on the attorney general's website. Tex. Gov't Code § 552.136.

Q: May a district withhold or redact a social security number?

A: Yes. Multiple provisions of the PIA protect the social security number of a former or current district employee or board member or of an enumerated individual listed under section 552.1175 of the PIA. In addition to relying on any previous determination ruling granted by the attorney general to a district, a district may redact or withhold the social security number of a district employee and board members as follows:

- **Board members.** The social security number of a current board member in the custody of the district is confidential and excepted from public disclosure without the necessity of seeking an attorney general's ruling if the board member has selected confidentiality no later than the 14th day after the date on which the board member was elected or appointed and the district provides a requestor the required form notice available from the attorney general. Tex. Gov't Code §§ 552.117(a)(1), .024(b), (c)(2), (c-2), (d). A former board member must make the selection no later than the 14th day after the date the board member ends service with the district. Tex. Gov't Code § 552.024(b). The selection of confidentiality must occur prior to the receipt of a request for the information. Tex. Att'y Gen. ORD-530 (1989). The social security number of a board member may be redacted from disclosure without seeking an attorney general's ruling if the district provides the requestor the requisite notice form concerning Government Code section 552.024 from the attorney general.

If a board member fails to make a timely selection, consult the district's school attorney to consider requesting a ruling for confidentiality under the PIA's exception for social security numbers belonging to any living individual. Tex. Gov't Code § 552.147.

- **District employees.** The social security number of a current or former employee that is in the custody of the district is confidential and does not require the employee to elect confidentiality for the district to withhold the number from disclosure. Tex. Gov't Code §§ 552.024(a-1), .147(a-1); *see also, e.g.*, Tex. Att'y Gen. OR2013-18655 (concluding that Section 552.147(a-1), read in conjunction with Section 552.024(a-1), makes confidential the social security numbers of both current and former school district employees). The social security number of a district employee may be redacted from disclosure without seeking an attorney general's ruling if the district provides the requestor the requisite notice form concerning Government Code section 552.024 from the attorney general.
- **Certain individuals.** If the district is in possession of a social security number belonging to any one of the enumerated individuals listed under Texas Government Code section 552.1175, which includes current or former peace officers, prosecutors or judges, criminal and juvenile justice employees, and Texas military members, then the social security number is also confidential by law and may be redacted from disclosure without the need to request a ruling from the attorney general if the individual has completed a confidentiality selection form at any time (even after the district's receipt of an information request) and the district provides a requestor the form notice available from the attorney general. Tex. Gov't Code § 552.1175.

- **Members of the public.** The social security number of any living person is confidential and may be redacted or withheld without the necessity of requesting a ruling from the attorney general. Tex. Gov't Code § 552.147(b). According to the [attorney general's website](#), a form notice from the attorney general is not required when redacting social security numbers. To avoid confusion and to reduce complaints, however, TASB Legal Services recommends that a district provide a requestor an explanation that the redacted or withheld information contains a social security number of a member of the public and that the PIA allows for the redaction or withholding without any further action by the district.

Q: *May a district disclose personal email addresses?*

A: It depends on the purpose for which a personal email address is used. Personal email addresses used by district employees and board members to conduct school business are not excepted from public disclosure. *See Austin Bulldog v. Leffingwell*, 490 S.W.3d 240, 250 (Tex. App—Austin Apr. 8, 2016, no pet.) (requiring disclosure of personal email addresses of city officials used to communicate official city business). A school district email address is not considered a personal email address.

Personal email addresses belonging to the public that are provided to the district for the purpose of communicating electronically with the district are confidential and not subject to disclosure; however, if one of the following conditions apply, then personal email addresses must be released:

- (1) the email address holder affirmatively consents to disclosure of the address;
- (2) the email address holder has a contractual relationship with the district or is a vendor seeking to contract with the district;
- (3) the email address is contained in a request for bids, proposals, or similar invitations soliciting offers or information relating to a potential contract, or provided to the district in the course of negotiating the terms of a contract or potential contract;
- (4) the email address is provided to the district on a letterhead, cover sheet, printed document, or other document made available to the public; or
- (5) the email address is provided to the district for the purpose of receiving orders or decisions from the district.

Tex. Gov't Code § 552.137.

If an email address is not subject to public disclosure as described above, the district may rely on a previous determination ruling issued by the attorney general that applies to all governmental bodies, authorizing them to withhold an email address of a member of the public without the necessity of requesting an attorney general decision. Tex. Att’y Gen. ORD-684 (2009).

Q: *May districts release information related to a school district employee’s retirement or eligibility for retirement?*

A: No. Pursuant to Texas Government Code section 552.0038, a school district must not release any records of individual members, annuitants, retirees, beneficiaries, alternate payees, program participants, or persons eligible for benefits from a retirement system under a retirement plan or program administered by the retirement system that are in the custody of the system or in the custody of an administering firm, a carrier, or another governmental agency (such as a school district) acting in cooperation with or on behalf of the retirement system. Tex. Gov’t Code § 552.0038(c). A retirement system includes the Teachers Retirement System and the Employee Retirement System. Tex. Gov’t Code 802.001.

An administering school district of a retirement plan is not required to accept or comply with a request for information covered by section 552.0038 or to seek an opinion from the attorney general except as otherwise provided by section 552.0038, such as to the employee or an authorized attorney, family member, or representative acting on behalf of the employee or person eligible for benefits. Tex. Gov’t Code § 552.0038(c)-(d).

The retirement system has sole discretion in determining whether a record is subject to this section. Tex. Gov’t Code § 552.0038(h). When appropriate, a school district may wish to seek a determination from the appropriate retirement system.

Q: *Must a district provide a requestor information that does not exist?*

A: No. The PIA only obligates the district to disclose public information in existence on the date the district receives the written PIA request. A district has no duty under the PIA to:

- Prepare new information that does not already exist. *A&T Consultants, Inc. v. Sharp*, 904 S.W.2d 668, 676 (Tex. 1995); *Fish v. Dallas Indep. Sch. Dist.*, 31 S.W.3d 678, 683 (Tex. App.—Eastland 2000, pet. denied); Tex. Att’y Gen. Op. No. H-90 (1973); Tex. Att’y Gen. ORD-452 (1986), ORD-342 (1982), ORD-87 (1975).
- Notify the requestor if the requested information later comes into existence. Tex. Att’y Gen. ORD-452 (1986).
- Comply with a continuing request for periodic disclosure as the requested information comes into existence. Tex. Att’y Gen. Op. No. JM-48 (1983); Tex. Att’y Gen. ORD-476 (1987), ORD-465 (1987).

- Answer questions or do legal research. Tex. Att’y Gen. ORD-563 (1990), ORD-555 (1990).

If a district is in possession or control of existing information or records containing information responsive to a requestor’s request, then the district must provide the information in accordance with the PIA or seek a ruling from the attorney general if the district believes there are applicable legal exceptions. Tex. Gov’t Code §§ 552.006, .301.

If a district does not have the information at the time of the request, however, the district may simply respond to the requestor that no information is responsive to the requestor’s request in question. The requestor may also volunteer to withdraw the request and resubmit it later, when the district may create or maintain the desired public information.

At all times, a district must make a good faith effort to relate a request to information that is within its possession or control. Tex. Att’y Gen. ORD-561 (1990).

Q: Must a district release the age or birth year of an employee even if the district is concerned about how a requestor might use this information?

A: Probably. As noted above, if a district determines it has information responsive to a request, it must provide the information in accordance with the PIA or seek a ruling from the attorney general if the district believes there are applicable legal exceptions. A district must treat all requests for information uniformly and may not consider the identity of the requestor or a requestor’s intended use of information when receiving a request for information. Tex. Gov’t Code §§ 552.222(a)-(b), .223; *see* Tex. Att’y Gen. ORD-508 (1988) (motives of a person seeking information under the Act are irrelevant), ORD-51 (1974). *See also, e.g.,* Att’y Gen. OR2012-12269 (did not find employees’ ages to be private under PIA section 552.102), OR2018-03573 (did not find employees’ birth year to be highly intimate or embarrassing or of no legitimate public interest to be confidential under PIA section 552.101).

Q: Is it advisable to create new information or generate answers to requestors if a district believes it is faster than complying with the procedural requirements of the PIA?

A: There may be circumstances where a district determines it is in the district’s best interest to waive discretionary exceptions under the PIA and provide certain existing information publicly, to waive allowable charges under the PIA, or to voluntarily generate or create new information.

Local policy may require board approval prior to the creation of new reports. *See* TASB Model Policy BP(LOCAL). Remember that confidential information is protected from disclosure by mandatory exceptions under the PIA and should not be released without a ruling from the attorney general or the requisite form notices, as applicable. If the district

creates new information in response to a requestor, then the district must treat all requestors uniformly and disclose the newly created public information to all future requestors asking for the same information. Tex. Gov't Code § 552.223.

Such local decisions should always be made in consultation with your school attorney, board of trustees, superintendent, public information officer, and communications director.

Q: *Where may a district get more information about the PIA?*

A: The attorney general is required by the PIA to maintain uniformity in the application, operation, and interpretation of the PIA. Tex. Gov't Code § 552.011. Therefore, the Office of the Attorney General is the primary source of information about the PIA. For more information, see the attorney general's [open government](#) website, review the attorney general's Public Information Act Handbook on the [Public Information Act](#) webpage, or call the attorney general's Open Government Hotline at 877-673-6839.

Supplemental resources about the PIA are also available in the [TASB Store](#) or [TASB School Law eSource](#), and school district board members and administrators may contact TASB Legal Services at 800.580.5345.

This document is continually updated, and references to online resources are hyperlinked, at tasb.org/services/legal-services/tasb-school-law-esource/community/documents/commonly-requested-personal-information.pdf. For more information on this and other school law topics, visit TASB School Law eSource at schollawesource.tasb.org.

This document is provided for educational purposes only and contains information to facilitate a general understanding of the law. It is not an exhaustive treatment of the law on this subject nor is it intended to substitute for the advice of an attorney. Consult with your own attorneys to apply these legal principles to specific fact situations.

Updated November 2019