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OPINION 24-0069

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90-C PUBLIC RECORDS

La. Const. art. I, § 5	La. R.S. 42:1158
La. R.S. 42:1115.2	La. R.S. 42:1159
La. R.S. 42:1124	La. R.S. 44:1 <i>et seq.</i>
La. R.S. 42:1124.2.1	La. R.S. 44:11(A)(1)

The Louisiana Board of Ethics should redact home address from financial disclosures when requested by a state employee.

Dear Ms. Andrews:

You have asked for an opinion addressing whether home addresses of state employees listed in financial disclosures filed pursuant to La. R.S. 42:1115.2, 42:1124.2.1, and 42:1124 must be redacted when the employee requests that his or her home address be kept confidential.

Your opinion indicates and the statutes cited affirm that state employees are required to file financial disclosures under certain circumstances with the Board of Ethics pursuant to La. R.S. 42:1115.2, 42:1124.2.1, and 42:1124. These financial records are public records pursuant to La. R.S. 42:1124(E).

Answer: For the reasons that follow, it is the opinion of this office that the home addresses of state employees contained in financial disclosures filed pursuant to the relevant statutes must be kept confidential if requested by the state employee.

Article I, Section 5 of the Louisiana Constitution ensures that “every person shall be secure in his person, property, communications, houses, papers, and effects against unreasonable searches, seizures, or invasions of privacy.” The Louisiana Supreme Court has recognized that the right to privacy embodied in Louisiana Const. art. I § 5, protects against any “unreasonable” invasions of privacy and exempts certain information from production under the Public Records Act. See *Shane v. Parish of Jefferson*, 14-2225 (La. 12/8/15), 209 So.3d 726, 741. Louisiana's constitutional right to privacy has been described as “the right to be ‘let alone,’...and to be free from ‘unnecessary public scrutiny.’” *DeSalvo v. State*, 624 So.2d 897, 901 (La.1993).

When the content of a public record is at issue on privacy grounds, the courts require, first, the existence of a reasonable expectation of privacy against the disclosure of the information before it can be withheld. *Beckett v. Serpas*, 2012-1349 (La. App. 4 Cir. 3/20/13), 112 So. 3d 348, 351. Public employees have a reasonable expectation of privacy in their home addresses. In La. R.S. 42:11, the legislature recognized this interest by granting their home address and phone number a specific exemption in the public records statutes. Further, upon employment with the State, public employees are

presented with a form to exercise their right to the privacy with respect to their home address and telephone number by designating that it remain confidential.

Once a reasonable expectation of privacy is identified, Article I, Section 5 has a second component that balances the privacy interest against the need for public access to that particular information. See *Broderick v. State, Dep't of Env't Quality*, 2000-0156 (La. App. 1 Cir. 5/12/00), 761 So. 2d 713. The home address of a public servant has minimal if any value to the public in relation to the employee's public duties. And where the employee has taken additional steps to maintain the confidentiality of that information, the employee has personally demonstrated an enhanced interest in asserting their own right to privacy.

The public's interest in a home address is vastly outweighed by the employee's personal interest in protecting his or her privacy. State employees exercise duties that can arouse discontent and grievance. In some instances, public employees and their families have been targeted for violence. See Opinion, *My Son Was Killed Because I'm a Federal Judge*, The New York Times, Dec. 8, 2020 (describing an attack at the home of federal district court judge Esther Salas by a disgruntled litigant that resulted in her son's death and critically injured her husband who had answered a knock at the front door.) The home address and personal phone number of a public employee is not relevant to an employee's public duties. Virtually every employee has a public agency address related to their job and phone number for that agency.

The intent of financial disclosures is to provide transparency regarding potential conflicts of interest and financial integrity, not to expose state employees to unnecessary risks. Therefore, protecting home addresses does not compromise the integrity of financial disclosures.

This conclusion is supported in the jurisprudence. In *Bd. of Ethics Matter of Sneed*, 2012-1849 (La. App. 1 Cir. 10/7/13), the First Circuit found a home address with personal financial information to be protected. The Court observed, "[o]ur court has previously found that society at large is prepared to recognize as reasonable an expectation of privacy in detailed personal financial information when coupled with names and home addresses," citing *Angelo lafrate Const., L.L.C. v. State ex rel. Dep't of Transp. & Dev.*, 2003-0892 (La. App. 1 Cir. 5/14/04), 879 So. 2d 250, 260.

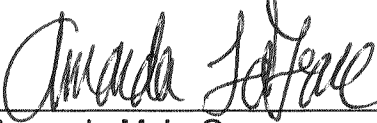
The Louisiana Ethics Board asserts in its memorandum to this office that La. R.S. 44:11 only permits redaction of home addresses from personnel records and therefore does not extend to financial disclosures. This position overlooks the broader statutory and constitutional framework. Louisiana Revised Statute 44:11 embodies the legislature's intent to protect personal information due to the nature of public service. This intent is further supported by the *constitutional* right to privacy, which applies to unreasonable invasions of privacy beyond the specific context of personnel records. Further, La. R.S. 42:1158(C) and 42:1159(D) direct the Louisiana Board of Ethics to exclude from publication any "material or information which is confidential as provided by law." The Louisiana Ethics Board, in redacting home addresses from financial disclosures upon request, would be acting in compliance of both the statute and constitutional protections.

Considering the foregoing, it is the opinion of this office that the Louisiana Board of Ethics should redact home address from financial disclosures when requested by a state employee.

We trust this adequately responds to your request. However, if our office can be of further assistance, please do not hesitate to contact us.

With best regards,

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BY: 
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