



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

April 26, 1994

Mr. Thomas L. Rees, Sr.  
Law Offices of Griggs, Sheridan, Rees & Ratliff  
P.O. Box 488  
Sweetwater, Texas 79556

OR94-180

Dear Mr. Rees:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), Government Code chapter 552. We assigned your request ID# 24285.

The Colorado Independent School District (the "school district"), which you represent, has received a request from a rejected applicant for information relating to the school district's selection of a custodian. Specifically, the requestor seeks copies of job performance evaluation statements regarding the applicant made by custodial workers and a copy of the requestor's interview transcript. You advise us that the interview transcript has been made available to the requestor. You object to release of the remaining information, however, and claim that sections 552.102 and 552.111 of the act except it from required public disclosure.

Section 552.102 excepts from required public disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Section 552.102 protects information only if its release would cause an invasion of privacy under the test articulated for section 552.101 of the act by the Texas Supreme Court in *Industrial Foundation v. Texas Industrial Accident Board*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). See *Hubert v. Harte-Hanks Texas Newspapers*, 652 S.W.2d 546 (Tex. App.--Austin 1983, writ ref'd n.r.e.). Under the *Industrial Foundation* case, information may be withheld on common-law privacy grounds only if it is highly intimate or embarrassing and is of no legitimate concern to the public. Generally, the public has a legitimate interest in the job performance of public employees. Open Records Decision Nos. 470, 467 (1987); see also Open Records Decision Nos. 444 (1986); 421 (1984); 405 (1983). We have examined the information submitted to us for review. We conclude that it does not contain any information about the applicant or his co-workers that is intimate or

embarrassing. Furthermore, the information concerns the job performance of a public employee and is of legitimate public interest. Accordingly, the submitted information may not be withheld from required public disclosure under section 552.102 of the act.

You also claim that the requested information is excepted from required public disclosure by section 552.111 of the act, which excepts information that constitutes an "interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." In Open Records Decision No. 615 (1993), this office reexamined the section 552.111 exception and held that section 552.111 excepts only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the deliberative or policymaking processes of the governmental body at issue. An agency's policymaking functions, however, do not encompass internal administrative or personnel matters; disclosure of information relating to such matters will not inhibit free discussion among agency personnel as to policy issues. *Id.* at 5-6. As the information submitted to us for review relates to an internal administrative and personnel matter, we conclude that section 552.111 does not except it from required public disclosure. Accordingly, the school district must release the submitted information in its entirety.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Mary R. Crouter  
Assistant Attorney General  
Open Government Section

MRC/GCK/rho

Ref.: ID# 24285

Enclosures: Submitted documents