



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

February 27, 1997

Ms. Kathleen A. Holden  
Assistant Vice President/Counsel  
Texas Guaranteed Student Loan Corporation  
P.O. Box 201725  
Austin, Texas 78720-1725

OR97-0435

Dear Ms. Holden:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 103997.

The Texas Guaranteed Student Loan Corporation ("TGSLC") received requests for certain employees' personnel files. The requestor also sought copies of complaints filed against a named employee and a copy of the TGSLC nepotism policy. It is our understanding from your letter that a copy of the nepotism policy has already been provided the requestor. You submitted a letter from the requestor in which he modified his request for information to exclude from his request information excepted from required public disclosure pursuant to sections 552.101, 552.102, and 552.117 of the Government Code.

You argue that the TGSLC is not a governmental body that is subject to chapter 552 of the Government Code and that the information requested is not subject to public disclosure. *See* Gov't Code § 552.101 (public information is collected, assembled or maintained under law or in connection with transaction of official business by or for governmental body). Section 552.003(1) defines a governmental body to include "a board, commission, department, committee, institution, agency, or office that is within or is created by the executive or legislative branch of state government and that is directed by one or more elected or appointed officers." In Open Records Decision No. 563 (1990), this office determined that the TGSLC is a governmental body subject to chapter 552 of the Government Code, because it is an institution that was created by the legislative branch, *see* Educ. Code § 57.11 (TGSLC created to administer programs authorized by chapter 57), § 57.12 (TGSLC subject to Sunset Act), and it is under the direction of one or more appointed officers, *see* Educ. Code § 57.13 (board of directors comprised of comptroller of public accounts or his designee and nine appointed members).

You also assert that, if TGSLC is a governmental body subject chapter 552, the requested complaints and personnel files are excepted from disclosure pursuant to sections 552.101 and 552.102 of the Government Code. Section 552.101 excepts from disclosure

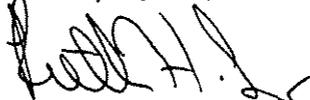
“information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Section 552.102(a) protects “information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” The test to determine whether information is private and excepted from disclosure under common-law privacy provisions, which are encompassed in section 552.101 and section 552.102 of the Government Code, is whether the information is (1) highly intimate or embarrassing to a reasonable person and (2) of no legitimate public concern. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 930 (1977); *Hubert v. Harte-Hanks Texas Newspapers Inc.*, 652 S.W.2d 546 (Tex. App.--Austin 1983, writ ref'd n.r.e.).

Most of the records at issue relate to the job performance and work behavior of public employees. There is a legitimate public interest in the qualifications of a public employee and how he or she performs job functions. Open Records Decision Nos. 470 (1987) at 4 (public has legitimate interest in job performance of public employees), 423 (1984) at 2 (scope of public employee privacy is narrow). However, we agree that certain financial information relating to individual employees is protected by common-law privacy. Open Records Decision No. 373 (1983). We have marked sample documents to show what must be withheld from disclosure under sections 552.101 and 552.102.

Some of the information at issue also is confidential under section 552.117 of the Government Code. Sections 552.024 and 552.117 provide that a public employee or official can opt to keep private his or her home address, home telephone number, social security number, or information that reveals that the individual has family members. Open Records Decision Nos. 530 (1989) at 5, 482 (1987) at 4, 455 (1987). We note that since all of the employees whose personnel records are at issue have opted to keep information confidential pursuant to section 552.117, you may not disclose their home addresses, home telephone numbers, social security numbers, or information revealing that they have family members. We have marked sample documents to show what must be redacted prior to releasing the information requested. The remaining information at issue must be disclosed.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

RHS/ch

Ref.: ID# 103997

Enclosures: Submitted documents

cc: Mr. Stephan Bolton (via Fax 249-3444)  
(w/o enclosures)