



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

July 15, 1997

Mr. Frank R. Lopez  
Lewis & Collins  
1200 Montana Avenue  
El Paso, Texas 79902

OR97-1605

Dear Mr. Lopez:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 107344.

The Ysleta Independent School District (the "district"), which you represent, received a request for the personnel file of an employee of the district and information concerning allegations against that employee. You claim that some of the requested information is excepted from disclosure under section 552.101 of the Government Code. As you have not submitted the remainder of the requested information for our review, we assume that you have released the remainder of the requested information to the requestor. We have considered the exception you claim and reviewed the submitted information.

Although you claim that section 552.101 applies to except the requested information from disclosure, you do not explain how section 552.101 applies to any specific information. The Government Code places on the custodian of records the burden of proving that records are excepted from public disclosure. Attorney General Opinion H-436 (1974). However, as section 552.101 is a mandatory exception, we have reviewed the documents to ascertain whether any of the submitted information is confidential either by statute, by judicial decision, or under constitutional or common-law privacy. We conclude that there is no confidential information or information protected by constitutional or common-law privacy in the submitted documents. Therefore, you may not withhold the submitted information under section 552.101.

However, we note that the documents contain the home addresses, phone numbers and social security numbers of current or former district employees. It is possible that this information may be confidential under section 552.117 of the Government Code, and therefore, depending on the specific circumstances, may not be released. Section 552.117

excepts from required public disclosure the home addresses, telephone numbers, social security numbers, or information revealing whether a public employee has family members of public employees who request that this information be kept confidential under section 552.024. Therefore, section 552.117 requires you to withhold this information if a current or former employee or official requested that this information be kept confidential under section 552.024. *See* Open Records Decision Nos. 622 (1994), 455 (1987). You may not, however, withhold this information of a current or former employee who made the request for confidentiality under section 552.024 after this request for information was made. Whether a particular piece of information is public must be determined at the time the request for it is made. Open Records Decision No. 530 (1989) at 5. We have marked the types of information that may be protected pursuant to section 552.117.<sup>1</sup>

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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Yen-Ha Le  
Assistant Attorney General  
Open Records Division

YHL/rho

Ref.: ID# 107344

Enclosures: Marked documents

cc: Mr. Tony Conners  
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(w/o enclosures)

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<sup>1</sup>Although one of the submitted complaints contains information excepted from disclosure by section 552.117, it was filed by the requestor's client. Thus, the requestor is entitled to this information. *See* Gov't Code § 552.023.