



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 14, 1998

Mr. James W. Deatherage
Attorney at Law
Law Office of Power & Deatherage
1311 West Irving Boulevard
Irving, Texas 75061-7220

OR98-2176

Dear Mr. Deatherage:

On behalf of the Irving Independent School District (the "school district"), you ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 118028.

The school district received a request for "all public records in a [former teacher's] personnel file, including her resume, resignation letter and dates of employment with the school district." You ask that we consider whether the former teacher's resignation letter is protected from required public disclosure on privacy grounds. You state that the school district takes no position as to whether the letter is subject to public release. You have submitted the letter to this office. You state that you have redacted information that identifies school district students or parents of students pursuant to the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g; *see* Open Records Decision No. 634 (1995) (educational agency or institution may withhold from disclosure personally identifiable nondirectory information in education record without requesting attorney general decision).

We have reviewed the letter at issue and considered whether the letter implicates the common-law or constitutional privacy rights of the former teacher. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Information may be withheld under section 552.101 in conjunction with the common-law right to privacy if the information contains highly intimate or embarrassing facts about a person's private affairs such that its release would be highly objectionable to a reasonable person and if the information is of no legitimate concern to the public. *See id.* The United States Constitution protects two kinds of individual privacy interests: (1) an individual's interest in independently making certain important personal decisions about matters that the

United States Supreme Court has stated are within the "zones of privacy," as described in *Roe v. Wade*, 410 U.S. 113 (1976) and *Paul v. Davis*, 424 U.S. 693 (1976). The "zones of privacy" implicated in the individual's interest in independently making certain kinds of decisions include matters related to marriage, procreation, contraception, family relationships, and child rearing and education. The second individual privacy interest that implicates constitutional privacy involves matters outside the zones of privacy. To determine whether the constitutional right to privacy applies, this office applies a balancing test, weighing the individual's interest in privacy against the public right to know the information. See Open Records Decision No. 455 at 5 (citing *Ramie v. City of Hedwig Village*, 765 F.2d 490, 492 (5th Cir. 1985)).

We conclude that the letter is not protected from required public disclosure based on either the common-law or constitutional right to privacy. See Open Records Decision No. 444 (1986). Accordingly, the school district must release the letter to the requestor. We assume the school district has released the remaining requested information.

We are resolving this matter with this 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 may 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,



Kay Hastings
Assistant Attorney General
Open Records Division

KHH/mjc

Ref.: ID# 118028

Enclosures: Submitted documents

cc: Mr. Michael H. Saul
Dallas Morning News
P.O. Box 655237
Dallas, Texas 75265
(w/o enclosures)