



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 8, 1998

Mr. Rex Daniels
Assistant Superintendent of Schools
Lampasas Independent School District
207 West 8th Street
Lampasas, Texas 76550

OR98-3003

Dear Mr. Daniels:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 120275.

The Lampasas Independent School District (the "school district") received an open records request for "a copy of the reprimand that is to be placed in Ms. Garret's file located at the Administration Office." In response to the request, you submit to this office for review the information at issue. You contend that "disclosure of the reprimand would be a clear unwarranted invasion of personal privacy." Based on your representation, we assume that you are raising common-law privacy as incorporated into sections 552.101 and 552.102 of the Government Code. We have considered the exceptions and arguments you have raised and reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section also encompasses the common-law right to privacy. 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 Tex. Newspapers Inc.*, 652 S.W.2d 546 (Tex. App.--Austin 1983, writ ref'd n.r.e.).

The records at issue relate to the job performance and work behavior of a public employee. There is a legitimate public interest in the work behavior of a public employee and how he or she performs job functions. Open Records Decision Nos. 470 at 4 (1987) (public has legitimate interest in job performance of public employees), 444 (1986) (public has legitimate interest in knowing reasons for dismissal, demotion, promotion, or resignation of public employees), 423 at 2 (1984) (scope of public employee privacy is narrow). Since the reprimand letter relates to a public employee's job performance, we conclude that the public has a legitimate right to this information. Open Records Decision No. 470 (1987). We do not believe the requested information is protected from public disclosure based on the common-law right to privacy. Accordingly, the school district may not withhold the information from the requestor based on sections 552.101 or 552.102 of the Government Code.

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,

A handwritten signature in black ink that reads "Sam Haddad". The signature is written in a cursive style with a large, looping initial "S".

Sam Haddad
Assistant Attorney General
Open Records Division

SH/mjc

Ref.: ID# 120275

Enclosure: Submitted document

cc: Mr. Ed and Ms. Teresa Dimas
608 E. Avenue G
Lampasas, Texas 76550
(w/o enclosure)