



June 3, 1999

Mr. Robert A. Schulman
Schwartz & Eichelbaum, P.C.
700 North Saint Mary's Street, Suite 1850
San Antonio, Texas 78205

OR99-1534

Dear Mr. Schulman:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 125160.

The United Independent School District (the "district"), which you represent, received an open records request for the job applications of six named district employees. You contend the requested information is exempted from required public disclosure pursuant to sections 552.101, 552.102, 552.117, and 552.130 of the Government Code.

The purpose of section 552.102(a) of the Government Code is to protect public employees' personal privacy. The scope of section 552.102(a) protection, however, is very narrow. *See* Open Records Decision No. 336 (1982). *See also* Attorney General Opinion JM-36 (1983). The test for section 552.102(a) protection is the same as that for information protected by common-law privacy under section 552.101: the information must contain highly intimate or embarrassing facts about a person's *private* affairs such that its release would be highly objectionable to a reasonable person *and* the information must be of no legitimate concern to the public. *Hubert v. Harte-Hanks Tex. Newspapers, Inc.*, 652 S.W.2d 546, 550 (Tex. App.--Austin 1983, writ ref'd n.r.e.); *see also Industrial Found. v. Tex Indus. Accident Bd.*, 540 S.W.2d 668, 683-85 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977).

In Open Records Decision No. 455 (1987), this office concluded that each of the following categories of information have a direct bearing on an applicant's suitability for public employment and thus are not protected by common-law privacy: applicant's educational training; names and addresses of former employers; dates of employment; kind of work performed, salary, and reasons for leaving; names, occupations, addresses, and phone numbers of character references; job performances or abilities; birth dates, height and weight, and marital status. After reviewing the job applications you submitted to this office, we could discern no information that implicates the district employees' privacy interests. The district may not withhold any of the information at issue on privacy grounds.

Section 552.117(1) of the Government Code excepts from disclosure, among other things, the home address, home telephone number, and social security numbers of current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024. Whether a particular piece of information is protected by section 552.117(1) must be determined at the time the request for it is made. *See* Open Records Decision No. 530 at 5 (1989). To the extent that the individuals who are the subjects of the open records request made the election prior to the date on which the district received the open records request, the district must withhold these categories of information pursuant to section 552.117(1). Otherwise, these types of information must be released.

Section 552.130(a)(1) of the Government Code requires that the district withhold "information [that] relates to . . . a motor vehicle operator's or driver's license or permit issued by an agency of this state." Some of the requested records contain the driver's license number of district employees. Because this type of information is made confidential under section 552.130(a) of the Government Code, we conclude that the district must withhold the driver's license numbers pursuant to section 552.130(a)(1). However, except as discussed above, all remaining information must be released.

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.

Sincerely,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/RWP/eaf

Ref.: ID# 125160

encl. Submitted documents

cc: Ms. Yolanda Gonzalez
TSTA Representative-Region 3
2100 Corpus Christi, Suite 8
Laredo, Texas 78040
(w/o enclosures)