



February 16, 2000

Ms. Lilia Ledesma-Gonzalez
Law Office of James E. Darling
P.O. Box 5489
McAllen, Texas 78502

OR2000-0554

Dear Ms. Ledesma-Gonzales:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID#132296.

The South Texas Community College (the "college"), which you represent, received a request for the personnel file of a particular professor, a copy of the final report compiled by the Southern Association of Colleges and Schools (the "SACS") self study committees, and a copy of the report filed by the SACS representatives at the end of their mock visit. Because you have not submitted the requested reports for our review, we assume that the college has already released these reports to the requestor. You claim that the remaining responsive information is excepted from disclosure under section 552.102 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.102(a) protects

information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, except that all information in the personnel file of an employee of a governmental body is to be made available to that employee or the employee's designated representative as public information is made available under this chapter.

You state that the requestor is not the employee whose personnel file is being requested. You further state that the employee has not designated the requestor as her representative. However, our office has received a copy of an Authorization of Representation signed by the employee and dated November 22, 1999 designating the requestor as the employee's representative. Therefore, we find that the submitted documents must be made available to the requestor pursuant to section 552.102 of the Government Code. *See Gov't Code § 552.229 (consent to release).*

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/KSK/ljp

Ref: ID#132296

Encl. Submitted documents

cc: Ms. Mary A. Aldridge
Texas Faculty Association
1609-C East Griffin Parkway, PMB #109
Mission, Texas 78572
(w/o enclosures)