



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 8, 2004

Ms. Laura C. Rodriguez
Walsh, Anderson, Brown, Schulze & Aldrige, P.C.
P.O. Box 460606
San Antonio, Texas 78246

OR2004-7655

Dear Ms. Rodriguez;

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 211565.

The Ingleside Independent School District (the "district"), which you represent, received a request for all employment documents concerning a named employee. You state that some of the information has been released but claim that some of the submitted information is excepted from disclosure under sections 552.101, 552.102, and 552.117 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You assert that the submitted transcripts are subject to section 552.102 of the Government Code. Section 552.102(b) excepts from disclosure most information on a transcript from an institution of higher education maintained in the personnel files of professional public school employees. Gov't Code § 552.102(b). Section 552.102(b) excepts from disclosure all information from transcripts other than the employee's name, the courses taken, and the degree obtained. Open Records Decision No. 526 (1989). Thus, with the exception of the employee's name, the courses taken, and the degree obtained, the district must withhold the information in the submitted transcripts pursuant to section 552.102(b).

You assert that the submitted documents contain a social security number that is excepted from disclosure under section 552.117 of the Government Code. Section 552.117 excepts from disclosure the home addresses and telephone numbers, social security numbers, and family member information 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 must be determined at the time the request for it is made. *See* Open Records Decision No. 530 at 5 (1989). Therefore, the district may only withhold information under section 552.117 on behalf of current or former officials or employees who made a request for confidentiality under section 552.024 prior to the date on which the request for this information was made. For those employees who timely elected to keep their personal information confidential, the district must withhold the employees' home addresses and telephone numbers, social security numbers, and any information that reveals whether these employees have family members. The district may not withhold this information under section 552.117 for those employees who did not make a timely election to keep the information confidential. In this instance, the district received the request for information on August 11, 2004; however, the employee did not make his section 552.024 election until August 16, 2004. Therefore, the social security number may not be withheld under section 552.117.

You also assert that this information is excepted from disclosure under section 552.101 in conjunction with section 58.001 of the Occupations Code, which provides as follows:

The social security number of an applicant for or holder of a license, certificate of registration, or other legal authorization issued by a licensing agency to practice in a specific occupation or profession that is provided to the licensing agency is confidential and not subject to disclosure under Chapter 552, Government Code.

Occ. Code § 58.001. You indicate that the marked social security number was provided to the Texas Education Agency. However, you do not inform us, nor does it otherwise appear, that the district itself holds the information as a licensing agency. Furthermore, you do not inform us that the Texas Education Agency transferred the documents containing the social security number to the district, which would afford it the protection of the transfer doctrine as articulated in Open Records Decision No. 661 at 3 (1999) (information may be transferred between governmental bodies without violating its confidential character on the basis of a recognized need to maintain an unrestricted flow of information between governmental bodies). Accordingly, we find that the district may not withhold the marked social security number under section 552.101 in conjunction with section 58.001 of the Occupations Code.

You also assert that the marked social security number is excepted from disclosure under section 552.101 in conjunction with the 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(viii)(I). *See* Open Records Decision No. 622 (1994). These amendments make confidential social security numbers and related records that are obtained and maintained by a state agency or political subdivision of the state pursuant to any provision of law enacted on or after October 1, 1990. *See id.* We have no basis for concluding that the social security number in the file is confidential under section 405(c)(2)(C)(viii)(I), and therefore excepted from public disclosure under section 552.101 on the basis of that federal provision. We caution, however, that section 552.352 of the Public Information Act imposes criminal penalties for the release of confidential information.

Prior to releasing the social security number, you should ensure that it was not obtained or is maintained by the district pursuant to any provision of law, enacted on or after October 1, 1990.

In summary, with the exception of the employee's name, the courses taken, and the degree obtained, the district must withhold the submitted transcripts under section 552.102(b) of the Government Code. The district may not withhold the social security number under section 552.117 or section 552.101 in conjunction with the Occupations Code. However, the social security number may be excepted from disclosure under section 552.101 in conjunction with federal law. The remaining information in the submitted documents must be released.

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 Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. 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,



Tamara L. Harswick
Assistant Attorney General
Open Records Division

TLH/sdk

Ref: ID# 211565

Enc. Submitted documents

c: Mr. Roland Garza
2845 Alvin Drive
Corpus Christi, Texas 78415
(w/o enclosures)