ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 1, 2005

Ms. Debra G. Rosenberg
Atlas & Hall, L.L.P.
P.O. Box 3725
McAllen, Texas 78502

OR2005-05851

Dear Ms. Rosenberg:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 227229.

The McAllen Independent School District (the "district"), which you represent, received a request for information regarding a named administrator's credentials. You claim that the requested information is excepted from disclosure pursuant to sections 552.101, 552.102, and 552.117 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.102(b) excepts from disclosure "a transcript from an institution of higher education maintained in the personnel file of a professional public school employee." Gov't Code § 552.102(b). This section further provides, however, that "the degree obtained or the curriculum on a transcript in the personnel file of the employee" is not excepted from disclosure. Therefore, except for the information that reveals the degree obtained and the courses taken, the district must withhold the submitted college transcripts under section 552.102(b).

A portion of the remaining submitted information is subject to section 552.117 of the Government Code. Section 552.117(a)(1) 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. *See* Gov't Code § 552.117(a)(1). 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). You state that the employee at issue elected to withhold his information pursuant to section 552.024. However, you do not indicate whether this employee elected to withhold his section 552.117 information prior to the date on which the district received the instant request for information. If the employee at issue elected prior to the receipt of this request to keep his

address and social security number confidential, the district must withhold the information we have marked pursuant to section 552.117(a)(1). The district may not withhold this information under section 552.117(a)(1) if the employee at issue did not make a timely election to keep this information confidential.

Regardless of whether of section 552.117 applies, a social security number is subject to section 552.147 of the Government Code. Section 552.147 of the Government Code[1] provides that "[t]he social security number of a living person is excepted from" required public disclosure under the Act. Therefore, the district must withhold the social security number we have marked in the submitted information under section 552.147.[2]

In summary, except for the information that reveals the degree obtained and the courses taken, the college transcripts must be withheld under section 552.102(b). The district must withhold the information we have marked under section 552.117 of the Government Code if the employee at issue made a timely election under section 552.024 of the Government Code. Regardless of whether section 552.117 applies, the marked social security number must be withheld under section 552.147 of the Government Code.[3] The remaining information must be released to the requestor.

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

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[1]Added by Act of May 23, 2005, 79th Leg., R.S., S.B. 1485, § 1, sec. 552.147(a) (to be codified at Tex. Gov't Code § 552.147).

[2]We note that section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

[3]As our ruling is dispositive, we do not address your remaining arguments.

statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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); *Tex. 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,

Debbie K. Lee
Assistant Attorney General
Open Records Division

DKL/seg

Ref: ID# 227229

Enc. Submitted documents

c: Mr. Rod Santa Ana, III
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(w/o enclosures)