



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

December 30, 2009

Mr. Fortunato G. Paredes
Escamilla & Poneck, Inc.
Attorney for United Independent School District
216 West Village Boulevard, Suite 202
Laredo, Texas 78041

OR2009-18423

Dear Mr. Paredes:

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# 365767.

The United Independent School District (the "district"), which you represent, received a request for all documents the district used in its decision not to hire the requestor. You state you have released some information to the requestor. You claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses the doctrine of common-law privacy, which protects information if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. The type of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683.

You inform us the information at issue consists of an employment reference form the district uses to check a job applicant's character. You argue that "the name as well as the particular thoughts of the individual who was contacted concerning the reference should be protected by common-law [privacy] as intimate and whose disclosure could be embarrassing." Upon review, we find the submitted information is not highly intimate or embarrassing information of no legitimate public interest. Therefore, the district may not withhold this information pursuant to section 552.101 of the Government Code in conjunction with common-law privacy. As you raise no other argument against disclosure, the district must release the form in its entirety.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Mack T. Harrison
Assistant Attorney General
Open Records Division

MTH/rl

Ref: ID# 365767

Enc. Submitted documents

c: Requestor
(w/o enclosures)