



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 13, 2010

Ms. Mia M. Martin
General Counsel
Richardson Independent School District
400 South Greenville Avenue
Richardson, Texas 75081-4198

OR2010-15616

Dear Ms. Martin:

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# 401388.

The Richardson Independent School District (the "district") received a request for a list of all district employees and their current campuses, home addresses and telephone numbers, school e-mail addresses, years of service, annual salaries, dates of birth, and whether the employee "owns a 403(b)." You inform us that some of the requested information either has been or will be released. You state that responsive information protected by section 552.117 of the Government Code will be redacted pursuant to section 552.024(c) of the Government Code.¹ You claim that other responsive information is excepted from disclosure under

¹Section 552.117(a)(1) excepts from disclosure the home address and telephone number, social security number, and family member information of a current or former official or employee of a governmental body who timely requests that this information be kept confidential under section 552.024. *See* Gov't Code § 552.117(a)(1). Section 552.024(c) authorizes a governmental body to redact these types of information if the current or former official or employee to whom the information pertains chooses not to allow public access to the information. *See id.* § 552.024(c), (c-1), (c-2).

sections 552.101 and 552.102 of the Government Code. We have considered the exceptions you claim and reviewed the information you submitted.²

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 exception encompasses common-law privacy, which protects information that is highly intimate or embarrassing, such that its release would be highly objectionable to a person of ordinary sensibilities, and of no legitimate public interest. See *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). Section 552.102(a) of the Government Code excepts from disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy[.]" Gov't Code § 552.102(a). This exception protects information pertaining to public officials and employees. The privacy analysis under section 552.102(a) is the same as the two-part test for common-law privacy under section 552.101 and *Industrial Foundation*. See *Hubert v. Harte-Hanks Tex. Newspapers, Inc.*, 652 S.W.2d 546, 549-51 (Tex. App.—Austin 1983, writ ref'd n.r.e.) (addressing statutory predecessor to Gov't Code § 552.102). Accordingly, we will address your privacy claims under sections 552.101 and 552.102(a) collectively.

Common-law privacy encompasses certain types of personal financial information. Financial information that relates only to an individual ordinarily satisfies the first element of the common-law privacy test, but the public has a legitimate interest in the essential facts about a financial transaction between an individual and a governmental body. See Open Records Decision Nos. 600 at 9-12 (1992) (identifying public and private portions of certain state personnel records), 545 at 4 (1990) (attorney general has found kinds of financial information not excepted from public disclosure by common-law privacy to generally be those regarding receipt of governmental funds or debts owed to governmental entities), 523 at 4 (1989) (noting distinction under common-law privacy between confidential background financial information furnished to public body about individual and basic facts regarding particular financial transaction between individual and public body), 373 at 4 (1983) (determination of whether public's interest in obtaining personal financial information is sufficient to justify its disclosure must be made on case-by-case basis). We agree that the personal financial information you have marked in pink is protected by common-law privacy and must be withheld from the requestor on that basis under sections 552.101 and 552.102(a) of the Government Code.

You also contend that employees' dates of birth are protected by common-law privacy under sections 552.101 and 552.102(a). Both this office and the Third Court of Appeals have

²This letter ruling assumes that the submitted representative samples of information are truly representative of the requested information as a whole. This ruling neither reaches nor authorizes the district to withhold any information that is substantially different from the submitted information. See Gov't Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

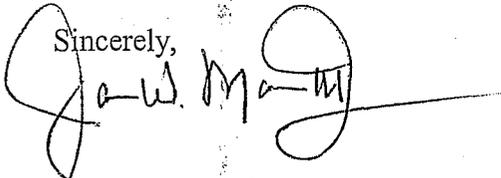
determined, however, that dates of birth are not highly intimate or embarrassing information. *See Tex. Comptroller of Public Accounts v. Attorney Gen. of Tex.*, 244 S.W.3d 629 (Tex. App.—2008, pet. granted) (“We hold that date-of-birth information is not confidential[.]”); *see also* Attorney General Opinion MW-283 (1980) (public employee’s date of birth not protected under privacy); ORD 455 at 7 (birth dates are not protected by privacy). Therefore, the district may not withhold employees’ dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy or section 552.102(a) of the Government Code.

In summary, the district must withhold the personal financial information you have marked in pink under section 552.101 of the Government Code in conjunction with common-law privacy and section 552.102(a) of the Government Code. Employees’ dates of birth may not be withheld under section 552.101 in conjunction with common-law privacy or section 552.102(a) and must be released.

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,

A handwritten signature in black ink, appearing to read "James W. Morris, III". The signature is written in a cursive style with a long horizontal line extending to the right.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/em

Ref: ID# 401388

Enc: Submitted documents

c: Requestor
(w/o enclosures)