



**ATTORNEY GENERAL OF TEXAS**  
**GREG ABBOTT**

November 13, 2012

Ms. Cynthia Rincon  
General Counsel  
Fort Bend Independent School District  
16431 Lexington Boulevard  
Sugar Land, Texas 77479

OR2012-18208

Dear Ms. Rincon:

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# 471808 (FBISD ORR 2012-13-098).

The Fort Bend Independent School District (the "district") received a request for information demonstrating whether disciplinary action was taken against a bus driver in response to a specified incident. You claim 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.

Initially, we note the requestor specifically excluded the name of the bus driver involved from her request. Therefore, this type of information is not responsive to the present request for information. This ruling does not address the public availability of any information that is not responsive to the request, and the district need not release such information in response to this request.

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. Section 552.101 encompasses the common-law right of privacy, which protects information if it (1) contains highly intimate or embarrassing facts, the publication

of which would be highly objectionable to a reasonable person, and (2) 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 established. *Id.* at 681-82. The type of information considered intimate or 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. Whether information is subject to a legitimate public interest and therefore not protected by common-law privacy must be determined on a case-by-case basis. *See* Open Records Decision No. 373 (1983). This office has found the following types of information are excepted from required public disclosure under common-law privacy: some kinds of medical information or information indicating disabilities or specific illnesses, *see* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps); personal financial information not relating to the financial transaction between an individual and a governmental body, *see* Open Records Decision Nos. 600 (1992), 545 (1990); and identities of victims of sexual abuse, *see* Open Records Decision Nos. 440 (1986), 393 (1983), 339 (1982). However, this office has noted the public has a legitimate interest in information that relates to public employees and their conduct in the workplace. *See, e.g.*, Open Records Decision Nos. 562 at 10 (1990) (personnel file information does not involve most intimate aspects of human affairs but in fact touches on matters of legitimate public concern), 470 at 4 (job performance does not generally constitute public employee's private affairs), 444 at 3 (1986) (public has obvious interest in information concerning qualifications and performance of government employees), 405 at 2 (1983) (manner in which public employee's job was performed cannot be said to be of minimal public interest), 329 (1982) (reasons for employee's resignation ordinarily not private).

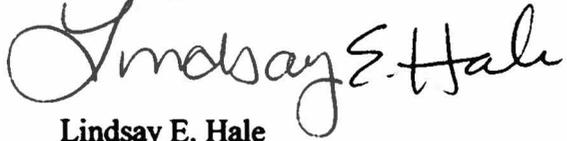
Upon review, we find you have failed to establish any of the responsive information is highly intimate or embarrassing and not of legitimate concern to the public. As such, none of the responsive information is confidential under common-law privacy, and the district may not withhold it under section 552.101 on that ground. As no further exceptions to disclosure are raised, the district must release the responsive information.

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](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 cursive script that reads "Lindsay E. Hale". The signature is written in black ink and is positioned above the typed name.

Lindsay E. Hale  
Assistant Attorney General  
Open Records Division

LEH/tch

Ref: ID# 471808

Enc. Submitted documents

c: Requestor  
(w/o enclosures)