



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 31, 1993

Ms. Nan P. Seidenfeld  
Walsh, Anderson, Underwood,  
Schulze & Aldridge, P.C.  
Renaissance Plaza, Suite 800  
70 N.E. Loop 410  
San Antonio, Texas 78216

OR93-025

Dear Ms. Seidenfeld:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), Government Code chapter 552.<sup>1</sup> We assigned your request ID# 22813.

The Uvalde Consolidated Independent School District (the "school district"), which you represent, has received two requests for information relating to recall procedures for school board members, teacher attrition, teacher janitorial duties, school district budget increases, teacher compensation, and information relating to this open records matter. You advise us that some of the requested information has been made available, but only to the extent that it exists. You advise us that the school district has not formulated recall procedures for school board members and that the requested teacher attrition information and teacher janitorial duty information is not available in the form requested. You ask us whether the act requires the school district to generate new information or to compile existing information in the form requested. In the alternative, you claim that section 552.102 excepts the requested information from required public disclosure.

Ordinarily, the act does not require a governmental body to prepare information in a form requested by a member of the public. Attorney General Opinion JM-672 (1987); Open Records Decision Nos. 483 (1987); 467 (1987). Nor does the act require a governmental body to prepare new information. Open Records Decision Nos. 572, 558 (1990). However, a governmental body must make a good faith effort to relate a request to information held by it, Open Records Decision No. 87 (1975), and must advise the

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<sup>1</sup>We note that the Seventy-Third Legislature repealed V.T.C.S. article 6252-17a. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

requestor of the types of information available so that he may properly narrow his request, Open Records Decision No. 31 (1974). Accordingly, the school district must advise the requestor of any records, to the extent that they exist, that contain the requested information.

Next we address your assertion that section 552.102 excepts the requested information from required public disclosure. Section 552.102 protects personnel file information only if its release would cause an invasion of privacy under the test articulated for section 552.101 of the act by the Texas Supreme Court in *Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). See *Hubert v. Harte-Hanks Texas Newspapers*, 652 S.W.2d 546 (Tex. App.--Austin 1983, writ ref'd n.r.e.). Under the *Industrial Foundation* case, information may be withheld on common-law privacy grounds only if it is highly intimate or embarrassing and is of no legitimate concern to the public. Generally, the public has a legitimate interest in the job qualifications and job performance of public employees. Open Records Decision Nos. 470; 467 (1987). Information previously held by this office not to be protected by common-law privacy interests includes, for example, applicants' and employees' educational training, names and addresses of former employers, dates of employment, kind of work, salary, and reasons for leaving, names, occupations, addresses and phone numbers of character references, job performance or ability, birth dates, height, weight, marital status, and social security numbers. See Open Records Decision No. 455 (1987); see also Open Records Decision Nos. 470, 467 (1987); 444 (1986); 421 (1984); 405 (1983).

Because you have not submitted any of the requested information to us for review, we are unable to determine whether section 552.102 excepts it from required public disclosure. Nonetheless, on its face, the request does not appear to encompass information excepted from disclosure by section 552.102. Subject to the duty of good faith discussed above, we will therefore assume that the requested information contains no information excepted by section 552.102 and will be released in its entirety to the requestor, unless records containing the requested information and additional arguments supporting your assertion of section 552.102 are submitted to this office within ten days of receipt of this letter.

Because prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Loretta R. DeHay  
Assistant Attorney General  
Open Government Section

LRD/GCK/rho

Ref.: ID# 22813  
ID# 22925  
ID# 23128

cc: Mr. Dean LaFever  
5 Puccini Lane  
Uvalde, Texas 78801