



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

April 26, 1994

Mr. S. Anthony Safi  
Mounce & Galatza  
P.O. Drawer 1977  
El Paso, Texas 79950-1977

OR94-184

Dear Mr. Safi:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 25442.

The El Paso Independent School District (the "school district") received a request concerning the Bowie High School Principal Paul Strelzin. Specifically, the requestor is seeking "Strelzin's letters first requesting a transfer to Hornedo Middle School and then a request to withdraw [the] letter." You contend the requested information is exempted from required public disclosure under section 552.102 of the Government Code.

Section 552.102 excepts:

(a) . . . information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, except that all information in the personnel file of an employee of a governmental body is to be made available to that employee or the employee's designated representative as public information is made available under this chapter.

(b) . . . a transcript from an institution of higher education maintained in the personnel file of a professional public school employee, except that this section does not exempt from disclosure the degree obtained or the curriculum on a transcript in the personnel file of the employee.

Section 552.102 protects personnel file information only if its release would cause an invasion of privacy under the test articulated for common-law privacy under section 552.101. *Hubert v. Harte-Hanks Texas Newspapers*, 652 S.W.2d 546, 550 (Tex. App.--

Austin 1983, writ ref'd n.r.e.) (ruling that test to be applied in decision under statutory predecessor to section 552.102 was same as that delineated in *Industrial Foundation of the South v. Texas Industrial Accident Board*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977) for statutory predecessor to section 552.101). Information is protected from public disclosure under the common-law right of privacy as section 552.101 incorporates it 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.

*Industrial Foundation*, 540 S.W.2d at 685; Open Records Decision No. 142 (1976) at 4 (construing statutory predecessor to section 552.101).

In the *Industrial Foundation* case the Texas Supreme Court considered intimate and embarrassing information such as that 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. *Industrial Foundation*, 540 S.W.2d at 683. The *Hubert* court distinguished the information at issue there, names of candidates for the office of president of a university, from the information the Texas Supreme Court considered intimate and embarrassing in *Industrial Foundation*. *Hubert*, 652 S.W.2d at 551 (discussing *Industrial Foundation*, 540 S.W.2d at 683).

You acknowledge that the issue of whether Mr. Strelzin was being considered for the principal of Hornedo Middle School may be considered to be public information, but contend that "public disclosure of these letters themselves may constitute an unwarranted invasion of [Mr. Strelzin's] personal privacy." We disagree. The requested information contains nothing highly intimate or embarrassing. Furthermore, the public has a legitimate interest in knowing the reasons for the dismissal, demotion, promotion, transfer, or resignation of a public employee. Open Records Decision No. 444 (1986) at 4. Accordingly, you may not withhold the requested information under section 552.102 of the Government Code.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with an 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,



Kimberly K. Oltrogge  
Assistant Attorney General  
Open Government Section

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Enclosures: Submitted documents

cc: Mr. Sonny Lopez

