



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 30, 1994

Mr. John Graham
Interim Superintendent
McAllen Independent School District
2000 North 23rd Street
McAllen, Texas 78501-6126

OR94-639

Dear Mr. Graham:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552. We assigned your request ID# 27959.

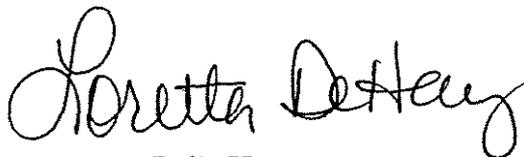
The McAllen Independent School District (the "school district") has received a request for information concerning an art teacher position recently filled at Brown Junior High School. Specifically, the requestor seeks, among other things, the successful applicant's art teaching certificate; the successful applicant's job application and resume; the successful applicant's sex, ethnicity, highest degree earned in the area of art, years of teaching experience in the area of art, overall grade point average, scholarships and special honors or art achievements; and applicants' interview evaluations performed by the site-base counsel hiring committee at Brown Jr. High. You object to release of the requested grade point average information, interview evaluations, and employee evaluations. You claim that sections 552.101 and 552.102(b) of the Government Code except this information from required public disclosure. As you do not comment on the remainder of the requested information, we presume that it has been or will be made available to requestor. *See* Open Records Decision No. 363 (1983).

Section 552.102(b) protects from required public disclosure transcripts from institutions of higher education in the personnel files of professional public school employees. Section 552.102(b) expressly excludes from this protection information on a transcript detailing the degree obtained and the curriculum pursued. *See* Open Records Decision No. 526 (1989). Accordingly, we conclude that the school district must withhold the requested grade point average information under section 552.102(b) of the Government Code.

You also seek to exclude applicant and employee evaluations from disclosure pursuant to section 552.101 of the Government Code, which excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," in conjunction with common-law privacy. Section 552.101 protects information only if its release would cause an invasion of privacy under the test articulated by the Texas Supreme Court in *Industrial Foundation v. Texas Industrial Accident Board*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). 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 performance of public employees. See Open Records Decision No. 470 (1987) at 5. In the past, this office has concluded that the doctrine of common-law privacy does not protect an applicant's or employee's 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 generally Open Records Decision No. 455 (1987) at 8. We have examined the evaluations submitted to us for review and conclude that there is a legitimate public interest in them. Accordingly, the school district may not withhold the evaluations under section 552.101 of the Government Code. Except for the requested grade point average information, the school district must release the requested information in its entirety.

Because case law and 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

Enclosures: Submitted documents

Ref.: ID# 27959

cc: Mr. Homero Basaldua
TFT PEG Representative
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(w/o enclosures)