



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 31, 1996

Mr. Dick Stengel
P.O. Box 1504
El Paso, Texas 79948

OR96-0860

Dear Mr. Stengel:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 39780.

The Socorro Independent School District (the "district"), which you represent, received a request for "complaints/allegations filed against Mr. Cardenas in his capacity as assistant principal and principal." The requestor also sought information concerning the final disposition of any complaints. The information that is responsive to the request includes an anonymous letter that makes certain allegations. You first ask if the anonymous letter and a subsequent investigation report are subject to chapter 552. You state that if these documents are subject to chapter 552, they are confidential pursuant to sections 552.101 and 552.102.

Section 552.002 of the Government Code provides that public information is "information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business" by or for a governmental body. As the letter is maintained by the district and the investigation report was apparently created by the district in response to the letter, both the letter and investigation report are subject to chapter 552.

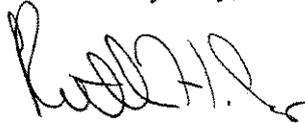
You assert that release of these documents could implicate the employee's right to privacy under sections 552.101 and 552.102 of the Government Code. The test to determine whether information is private and excepted from disclosure under common-law privacy provisions, which are encompassed in sections 552.101 and 552.102 of the Government Code, is whether the information is (1) highly intimate or embarrassing to a reasonable person and (2) of no legitimate public concern. *Industrial Found. v. Texas*

Indus. Accident Bd., 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 930 (1977); *Hubert v. Harte-Hanks Texas Newspapers Inc.*, 652 S.W.2d 546 (Tex. App.--Austin 1983, writ ref'd n.r.e.).

The letter and investigation relate to a public servant's job performance and behavior. There is a legitimate public interest in how a public servant conducts himself while on-duty and how he performs his job functions. Open Records Decision Nos. 470 (1987) at 4 (public has legitimate interest in job performance of public employees); 423 (1984) at 2 (scope of public employee privacy is narrow). We note that the letter makes certain allegations that were not sustained in the subsequent investigation. In Open Records Decision No. 579 (1990) at 7, this office stated that the purpose of the Open Records Act "is best served by the disclosure of even doubtful information, even if embarrassing, if it relates to the conduct of the public's affairs." *See Id.* at 3-8 (section 552.101 does not incorporate the tort of false light privacy, overruling prior decisions to the contrary). Thus, the letter and investigation report must be disclosed to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref.: ID# 39780

Enclosure: Submitted documents

cc: Mr. Edmundo J. Rueda
11801 Sierra Morena
El Paso, Texas 79936
(w/o enclosure)