



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

February 19, 1998

Ms. Sue M. Lee  
Henslee, Fowler & Hepworth  
800 Frost Bank Plaza  
816 Congress Avenue  
Austin, Texas 78701-2443

OR98-0491

Dear Ms. Lee:

On behalf of the Sinton Independent School District (the "school district"), you ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 113232.

The school district received a request for information concerning the resignation of Coach Rick Sowell. You state that the school district "is willing to release the information, but does not wish to do so in contravention of law and/or the rights of" Mr. Sowell. You state that the school district does not wish to violate sections 552.101, 552.102, 552.103 and 552.352 of the Government Code. As responsive to the request, you have submitted to this office a copy of a document titled "Resignation, Agreement, and Release of all Claims."

Section 552.101 of the Government Code exempts from required public disclosure information that is made confidential by law, either constitutional, statutory or by judicial decision. You raise no law that would make confidential the document at issue. Nor do we believe the document is made confidential by law. *Industrial Found. of the S. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977) (establishing test for withholding information under the common-law right to privacy under Government Code section 552.101). Thus, section 552.101 does not require the school district to withhold the information. In addition, as we have concluded that the information is not made confidential by law, section 552.352 of the Government Code, which makes the distribution of confidential a criminal offense and official misconduct, is not implicated.

Nor is section 552.102 applicable to the information. Section 552.102(a) of the Government Code exempts from public disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy."

The test to be applied to information claimed to be protected under section 552.102 is the same test formulated by the Texas Supreme Court in the *Industrial Foundation* case for information claimed to be protected under the doctrine of common-law privacy as incorporated by section 552.101. See *Hubert v. Harte-Hanks Texas Newspapers*, 652 S.W.2d 546 (Tex. App.--Austin 1983, writ ref'd n.r.e.). We have already concluded that section 552.101 in conjunction with the common-law right to privacy is inapplicable here. Consequently, section 552.102 is likewise inapplicable.

You raised section 552.103 in correspondence that this office did not timely receive. See Gov't Code § 552.301 (containing ten-day deadline for raising exceptions to public disclosure). Thus, the school district has waived section 552.103 and may not withhold the information from the requestor based on this exception.

We conclude that the school district must release the information to the requestor. We are resolving this matter with this 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 may 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,



Kay Hastings  
Assistant Attorney General  
Open Records Division

KHH/rho

Ref: ID# 113232

Enclosure: Submitted document

cc: Ms. Sally Barnes-Soliz  
San Patricio County News  
P.O. Drawer B  
Sinton, Texas 78387  
(w/o enclosure)