



May 18, 1999

Mr. Paul W. Hunn  
Walsh, Anderson, Brown, Schulze & Aldridge, P.C.  
6300 La Calma, Suite 200  
Austin, Texas 78752

OR99-1367

Dear Mr. Hunn:

You ask whether certain information is subject to required public disclosure under the Texas Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 124302.

The Port Neches-Grove Independent School District (the “district”), which you represent, received a request for copies of “any and all grievances and complaints filed or discussed pertaining to school district employment or working conditions of any sort regarding [the requestor] or involving [the requestor’s] name.” You contend that the only responsive document is excepted from public disclosure under section 552.102 of the Government Code.<sup>1</sup> We have considered the exception you claim and have reviewed the document at issue.

Section 552.101 excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Section 552.102(a) protects “information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” The test to determine whether information is private and excepted from disclosure under common-law privacy, which is encompassed in

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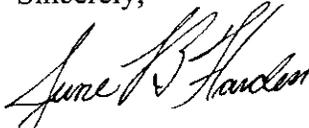
<sup>1</sup>You also cite section 551.074 of the Government Code. You do not explain nor can we discern how this section applies to the submitted information. Furthermore, information may not be withheld under chapter 552 merely because the information was properly considered in executive session. *See* Open Records Decision No. 485 (1987).

section 552.101 and section 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 Tex. Newspapers Inc.*, 652 S.W.2d 546 (Tex. App.--Austin 1983, writ ref'd n.r.e.).

The submitted documents relate *solely* to the job performance and work behavior of public employees. Since there is a legitimate public interest in the work behavior of a public employee and how he or she performs job functions, the district may not withhold the submitted document from public disclosure based on the common-law right to privacy. Open Records Decision Nos. 470 at 4 (1987) (public has legitimate interest in job performance of public employees), 444 (1986) (public has legitimate interest in knowing reasons for dismissal, demotion, promotion, or resignation of public employees), 423 at 2 (1984) (scope of public employee privacy is narrow). The submitted documents must, therefore, be released.

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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Sincerely,



June B. Harden  
Assistant Attorney General  
Open Records Division

JBH/ch

Ref.: ID# 124302

encl. Submitted documents

cc: Ms. Marsha Comer  
779 Cherokee  
Port Neches, Texas 77651  
(w/o enclosures)