



November 9, 1999

Ms. Denise Nance Pierce  
Bickerstaff, Heath, Smiley, Pollan, Kever & McDaniel  
1700 Frost Bank Plaza  
816 Congress Avenue  
Austin, Texas 78701-2443

OR99-3161

Dear Ms. Pierce:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 129289.

The Austin Independent School District (the "district"), which you represent, received a request for "all information pertaining to" two named district employees. You state that the district has released much of the requested information. You seek to withhold certain other information pursuant to sections 552.101, 552.102(b), and 552.117(1) of the Government Code.

You seek to withhold the records you submitted under "TAB C" pursuant to section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code. Section 552.101 requires the district to withhold, *inter alia*, information made confidential by statute. Section 21.355 of the Education Code provides that "[a] document evaluating the performance of a teacher or administrator is confidential." This office has interpreted this section to apply to any document that evaluates, as that term is commonly understood, the performance of a teacher or administrator. Open Records Decision No. 643 (1996). Because the documents under TAB C "evaluate" one of the district's teachers, the district must withhold those evaluations pursuant to section 21.355 of the Education Code. The teacher's "Texas Teacher's Certificate," however, must be released.

You contend that certain information contained in the employees' college transcripts is excepted from required public disclosure pursuant to section 552.102(b) of the Government Code, which protects from public disclosure

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.

In Open Records Decision No. 526 at 2-3 (1989), this office held that

governmental bodies must edit from professional public school employees' [college] transcripts information other than the employee's name, the degree obtained, and the courses taken. For example, grades must be deleted as well as any extraneous information, such as religious preference, appearing on the transcripts.

Open Records Decision No. 526 governs your request. After reviewing the documents you submitted under "TAB 1," we agree that the district must withhold the information you have highlighted. The remaining information in the transcripts must be released.

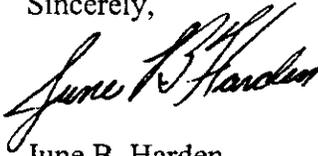
Finally, you contend that the district must withhold some of the information at issue from the public pursuant to section 552.117(1) of the Government Code. Section 552.117 of the Government Code excepts from disclosure the home addresses and telephone numbers, social security numbers, and family member information of current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024 of the Government Code. You have submitted evidence that one of the referenced employees has elected to have the district withhold her home address and telephone number in accordance with section 552.024. We agree that the information you have highlighted in the documents you submitted under "TAB 2" must be withheld pursuant to section 552.117(1). However, because the employee has not elected to have her social security number or family member information withheld, these two categories of information may not be withheld under section 552.117.

We additionally note that a social security number is excepted from required public disclosure under section 552.101 of the Government Code in conjunction with 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(viii)(I), *if it was obtained or is maintained by a governmental body pursuant to any provision of law enacted on or after October 1, 1990. See Open Records Decision No. 622 (1994).* It is not apparent to us that the social security numbers contained in the records at issue were obtained or are maintained by the district pursuant to any provision of law enacted on or after October 1, 1990. You have cited no law, nor are we aware of any law, enacted on or after October 1, 1990, that authorizes the district to obtain or maintain a social security number. Therefore, we have no basis for concluding that the social security numbers at issue were obtained or are maintained pursuant to such a statute and are, therefore, confidential under section 405(c)(2)(C)(vii)(I). We caution the district, however, that section 552.352 of the

Government Code imposes criminal penalties for the release of confidential information. Prior to releasing the social security numbers, the district should ensure that these numbers were not obtained or are maintained by the district pursuant to any provision of law enacted on or after October 1, 1990.

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.

Sincerely,



June B. Harden  
Assistant Attorney General  
Open Records Division

JBH/RWP/ch

Ref: ID#129289

Encl. Submitted documents

cc: Ms. Elvia Lopez  
4009 Iriona Bend  
Austin, Texas 78749  
(w/o enclosures)