



December 23, 1999

Mr. Paul Hunn
Walsh, Anderson, Brown, Schulze & Aldridge
P.O. Box 2156
Austin, Texas 78768

OR99-3748

Dear Mr. Hunn:

The Yoakum Independent School District (the "district"), which you represent, received a request under the Public Information Act (the "act") from the attorney of one of the district's teachers for, among other things, "all documents reflecting and/or relating to complaints or concerns raised or made about [the teacher] as an employee." You contend that one document responsive to the request, a complaint filed against the teacher, is excepted from required public disclosure pursuant to section 552.131 of the Government Code, as enacted by House Bill 211.¹ See Act of May 30, 1999, 76th Leg., R.S., ch. 1335, § 6, 1999 Tex. Gen. Laws 4543, 4545 (codified at Gov't Code § 552.131).

Section 552.131 of the Government Code, as enacted by House Bill 211, provides in pertinent part as follows:

(a) "Informer" means a student or former student or an employee or former employee of a school district who has furnished a report of another person's or persons' possible violation of criminal, civil, or regulatory law to the school district or the proper regulatory enforcement authority.

(b) An informer's name or information that would substantially reveal the identity of an informer is excepted from [required public disclosure].

¹Because you contend that only one responsive document held by the district is excepted from required public disclosure, we assume the district has released to the requestor all of the other requested records. See Gov't Code § 552.302.

(c) Subsection (b) does not apply:

(1) if the informer is a student or former student, and the student or former student, or the legal guardian, or spouse of the student or former student consents to disclosure of the student's or former student's name; or

(2) if the informer is an employee or former employee who consents to disclosure of the employee's or former employee's name; or

(3) if the informer planned, initiated, or participated in the possible violation.

You explain that the document at issue alleges violations of civil law. The document you seek to withhold consists of a written complaint filed by district employees against a named teacher and specifically alleges violations of title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e, *et seq.* This document was addressed to the principal of one of the district's schools, and none of the informers "planned, initiated, or participated in the possible violation." Gov't Code § 552.131(c)(3). We conclude, therefore, that you have properly invoked section 552.131 in this instance. Although you seek to withhold this entire document pursuant to section 552.131, the scope of the protection of this exception is limited to an "informer's name or information that would substantially reveal the identity of an informer." Gov't Code § 552.131(b). Consequently, only those portions of the complaint that would "substantially reveal" the identities of the district employees come within the protection of section 552.131. We have marked the portions of the document that come within the protection of section 552.131.

Additionally, the informers state in their complaint that they expect an "apology" from the teacher who is the subject of the complaint. This suggests to this office that, in this particular instance, the informers may not object to the release of their identities to the requestor. You have not informed this office whether the informants have expressed a preference in this regard or whether they have consented to the release of their identities. We conclude, therefore, that the district may withhold the information that we have marked which reveals the identities of the informants, but only after the district has verified with the informers that they in fact wish to have their respective identities withheld.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Kay H. Hastings
Assistant Attorney General
Open Records Division

KHH/RWP/ljp

Ref: ID# 129940

Encl.: Marked document

cc: Mr. Tony Conners
Brim, Arnett & Robinett, P.C.
2525 Wallingwood Drive, Building 14
Austin, Texas 78746
(w/o enclosures)