



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 30, 2006

Ms. Susan K. Bohn  
Bracewell & Giuliani, L.L.P.  
111 Congress Avenue, Suite 2300  
Austin, Texas 78701-4061

OR2006-07014

Dear Ms. Bohn:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 253411.

The Humble Independent School District (the "district"), which you represent, received a request for the job postings for high school band director for the 2006-2007 school year, all applications for employment or resumes submitted in response to the job posting, any and all notes taken during interviews for this position, and the district's equal employment opportunity policy.<sup>1</sup> You state that the district has released a portion of the requested information. You also state that the district will redact social security numbers under section 552.147 of the Government Code.<sup>2</sup> You claim that portions of the remaining requested information are excepted from disclosure under sections 552.102 and 552.117 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You claim that portions of Exhibits B-1 through B-7 are excepted from disclosure under section 552.102(b) of the Government Code. Section 552.102(b) excepts from disclosure all information from transcripts of professional public school employees other than the

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<sup>1</sup>We note that the requestor originally sought records in the possession of the Pearsall Independent School District. You state that the district contacted the requestor, who then clarified that he sought records in possession of the district. See Gov't Code § 552.222(b) (stating that if information requested is unclear, governmental body may ask requestor to clarify or narrow request).

<sup>2</sup>We note that section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this officer under the Act.

employee's name, the courses taken, and the degree obtained. Gov't Code § 552.102(b); Open Records Decision No. 526 (1989). You argue that the applicants' grade point averages contained in the employment applications submitted as Exhibits B-1 through B-7 are excepted under section 552.102(b). However, section 552.102(b) applies only to transcripts. The documents at issue are hard copies of employment applications submitted on-line to the district. Accordingly, section 552.102(b) does not apply to the applicants' grade point average contained in these documents, as they are not transcripts. Therefore, the district may not withhold this information on that basis. *See* Open Records Decision Nos. 649 at 3 (1996) (language of a confidentiality provision controls the scope of its protection), 478 at 2 (1987) (statutory confidentiality requires express language making certain information confidential or stating that information shall not be released to the public).

Section 552.117(a)(1) of the Government Code excepts from disclosure the home addresses and telephone numbers, personal cellular 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. You inform us that the employees whose information is at issue timely elected to keep the information confidential under section 552.024. As such, the district must withhold the information you have marked in Exhibits A-1 and A-2 pursuant to section 552.117(a)(1).

The submitted information contains e-mail addresses subject to section 552.137 of the Government Code. Section 552.137 excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body" unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See* Gov't Code § 552.137(a)-(c). We note that section 552.137 does not apply to a government employee's work e-mail address because such an address is not that of the employee as a "member of the public," but is instead the address of the individual as a government employee. The e-mail addresses we have marked appear to belong to members of the public and do not appear to be of a type specifically excluded by section 552.137(c). You do not inform us that the owners of the marked e-mail addresses have affirmatively consented to their release. *See id.* § 552.137(b). Therefore, the district must withhold the e-mail addresses we have marked under section 552.137.

In summary, the district must withhold: 1) the information it has marked in Exhibits A-1 and A-2 pursuant to section 552.117 of the Government Code; and 2) the e-mail addresses we have marked pursuant to section 552.137 of the Government Code. The remaining submitted information must be released to the requestor.

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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

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,



Candice M. De La Garza  
Assistant Attorney General  
Open Records Division

CMD/krl

Ref: ID# 253411

Enc. Submitted documents

c: Mr. Robert J. West  
Staff Attorney  
Association of Texas Professional Educators  
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(w/o enclosures)