



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 15, 2009

Mr. Fortunato G. Paredes  
Escamilla & Poneck, Inc.  
Attorneys for United Independent School District  
216 West Village Boulevard, Suite 202  
Laredo, Texas 78041

OR2009-08212

Dear Mr. Paredes:

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# 345921.

The United Independent School District (the "district"), which you represent, received a request for "copies of grievances filed by four [district] employees" against a named employee. You claim that some of the requested information is excepted from disclosure under section 552.117 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.117 of the Government Code excepts from disclosure the current and former home addresses, telephone numbers, social security numbers, and family member information of current or former employees of a governmental body who request that this information be kept confidential under section 552.024 of the Government Code. Gov't Code §§ 552.117(a)(1), .024. Whether a particular item of information is protected by section 552.117(a)(1) must be determined at the time of the governmental body's receipt of the request for the information. *See* Open Records Decision No. 530 at 5 (1989). Thus, information may only be withheld under section 552.117(a)(1) on behalf of an official or employee who made a request for confidentiality under section 552.024 prior to the date of the governmental body's receipt of the request for the information. Information may not be withheld under section 552.117(a)(1) on behalf of an official or employee who did not timely request under section 552.024 that the information be kept confidential. You have provided

documentation showing that one of the employees whose personal information is at issue made a timely election for confidentiality of his home address and social security number under section 552.024. However, the employee did not elect to keep confidential family member information; therefore, the district may not withhold family member information of the employee at issue under section 552.117. We note that the submitted information also contains the personal information of another district employee; you have not informed us whether or not this individual chose to withhold his personal information prior to the district's receipt of the request for information. Therefore, if the employee at issue timely elected to withhold his personal information, the district must withhold the information we have marked pursuant to section 552.117(a)(1) of the Government Code. If the employee did not timely elect to withhold his personal information, then the district may not withhold the marked information under section 552.117(a)(1) of the Government Code.

We note that some of the remaining information is excepted from disclosure under section 552.101 of the Government Code in conjunction with common-law privacy. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses the common-law right of privacy, which protects information if it (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The types of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. In addition, this office has found some kinds of medical information or information indicating disabilities or specific illnesses are excepted from required public disclosure under common-law privacy. *See* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). Upon review, we find that a portion of the remaining information is highly intimate or embarrassing and not of legitimate public concern. Therefore, the district must withhold the information we have marked under section 552.101 in conjunction with common-law privacy.

In summary, if the employee whose information is at issue timely elected to withhold his personal information, the department must withhold the marked information pursuant to section 552.117(a)(1) of the Government Code. We have marked the information that must be withheld under section 552.101 of the Government Code in conjunction with common-law privacy. The remaining submitted information must be released to the requestor.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

Ref: ID# 345921

Enc. Submitted documents

c: Requestor  
(w/o enclosures)