



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 13, 2009

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

OR2009-11351

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# 352016.

The United Independent School District (the "district"), which you represent, received a request for information relating to specified grievances filed by named district employees. You claim that portions of the submitted information are excepted from disclosure under section 552.117 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted information.

Section 552.117(a)(1) 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 officials or 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). Whether a particular piece of information is protected under section 552.117(a)(1) must be determined at the time the request for it is made. *See Open*

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<sup>1</sup>Although you raise section 552.024 of the Government Code, we note that this section is not an exception to public disclosure under the Act. Rather, this section permits a current or former official or employee of a governmental body to choose whether to allow public access to certain information relating to the current or former official or employee that is held by the employing governmental body. *See Gov't Code § 552.024.*

Records Decision No. 530 at 5 (1989). You have provided elections forms for five of the employees whose information is at issue. Three of the election forms only permit an employee to request confidentiality for his or her home address and telephone number. Additionally, one of the employees elected to make her home address and home telephone number available to the public. The two remaining election forms allow the employees to request confidentiality of their home address, home telephone, social security number, and family member information. However, one of the employees elected to allow public access to his family member information, and the other employee elected to allow access to his home telephone number and family member information. Upon review, none of the information these employees elected to make confidential is contained in the submitted information. Accordingly, none of the personal information relating to these five employees may be withheld under section 552.117 of the Government Code.

However, we note the submitted information contains the personal information of other employees. You do not indicate, and the submitted information does not reflect, whether these employees made timely elections for confidentiality of their personal information under section 552.024 of the Government Code. Thus, to the extent the other employees made timely elections for their personal information under section 552.0224, the district must withhold these employees' personal information, which we have marked, under section 552.117(a)(1). If the other employees did not make timely elections for their personal information, such information may not be withheld under section 552.117(a)(1) of the Government Code.

We note that portions of the remaining information are subject to the doctrine of common-law privacy. Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," and encompasses the doctrine of common-law right of privacy.<sup>2</sup> Common-law privacy protects information that is (1) highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The type of information considered intimate or 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. 540 S.W.2d at 683. In addition, this office has found that some kinds of medical information or information indicating disabilities or specific illnesses is protected by 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 some of the submitted information is highly intimate or embarrassing

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<sup>2</sup>The Office of the Attorney General will raise mandatory exceptions like section 552.101 on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

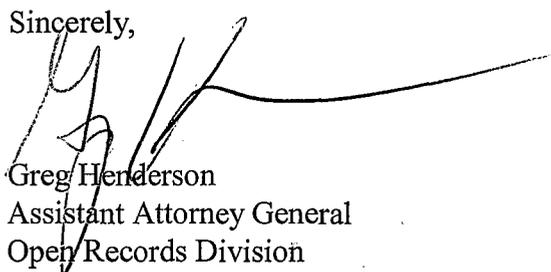
and of no legitimate public interest. Therefore, the district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, if the additional employees whose information is at issue made timely elections under section 552.024, the district must withhold the information we have marked under 552.117(a)(1) of the Government Code. The district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The remaining information must be released.

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,



Greg Henderson  
Assistant Attorney General  
Open Records Division

GH/rl

Ref: ID#352016

Enc. Submitted documents

c: Requestor  
(w/o enclosures)