



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 16, 2009

Mr. Paul Roser
Humble Independent School District
Public Information Office
P.O. Box 2000
Humble, Texas 77347

OR2009-16276

Dear Mr. Paul Roser:

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# 362427.

The Humble Independent School District (the "district") received a request for the employment records of a specified employee, all records pertaining to alleged misconduct by a specified employee, and district policies regarding teacher discipline and termination. You state that you have released some of the requested records to the requestor. The district informs us it has redacted social security numbers from the requested information pursuant to section 552.147 of the Government Code.¹ The district has redacted information pursuant to the Family Educational Rights and Privacy Act ("FERPA"), 1232g of title 20 of the United States Code.² You claim that portions of the submitted information are excepted from

¹Section 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 office under the Act. Gov't Code § 552.147(b).

²The United States Department of Education Family Policy Compliance Office (the "DOE") has informed this office FERPA does not permit state and local educational authorities to disclose to this office, without parental consent, unredacted, personally identifiable information contained in education records for the purpose of our review in the open records ruling process under the Act. The DOE has determined FERPA determinations must be made by the educational authority in possession of the education records. We have posted a copy of the letter from the DOE to this office on the Attorney General's website: <http://www.oag.state.tx.us/open/20060725usdoe.pdf>.

disclosure under sections 552.102 and 552.117 of the Government Code.³ We have considered the exceptions you claim and reviewed the submitted information.

Section 552.102 of the Government Code excepts from public disclosure "a transcript from an institution of higher education maintained in the personnel file of a professional public school employee[.]" Gov't Code § 552.102(b). This exception further provides, however, that "the degree obtained or the curriculum on a transcript in the personnel file of the employee" are not excepted from disclosure. *Id.*; see also Open Records Decision No. 526 (1989). Thus, with the exception of the employee's name, courses taken, and degree obtained, the district must withhold the submitted transcript pursuant to section 552.102(b) of the Government Code.

Section 552.117(a)(1) 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. Gov't Code § 552.117(a)(1). 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 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 a current or former 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 information. Information may not be withheld under section 552.117(a)(1) on behalf of a current or former official or employee who did not timely request under section 552.024 that the information be kept confidential. You inform us that the employee at issue timely elected confidentiality under section 552.024 for the marked information. Therefore, you must withhold the information you have marked under section 552.117(a)(1) of the Government Code.

In summary, with the exception of the employee's name, courses taken, and degree obtained, the district must withhold the submitted transcript under section 552.102(b) of the Government Code. The district must withhold the employee's personal information which you have marked under section 552.117(a)(1) of the Government Code. 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.

³Although you raise section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code, you make no arguments to support this exception and we do not find any of the submitted information to be an evaluation for the purposes of section 21.355. Therefore, we assume you have withdrawn your claim that this section applies to the submitted information.

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, 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, toll free at (888) 672-6787.

Sincerely,



Andrea L. Caldwell
Assistant Attorney General
Open Records Division

ALC/eeg

Ref: ID# 362427

Enc. Submitted documents

c: Requestor
(w/o enclosures)