



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 12, 2014

Ms. Ellen H. Spalding
Counsel for Eanes Independent School District
Rogers, Morris & Grover, L.L.P.
5718 Westheimer Road, Suite 1200
Houston, Texas 77057

OR2014-02647

Dear Ms. Spalding:

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# 513796 (EISD No. 6855).

The Eanes Independent School District (the "district"), which you represent, received a request for information pertaining to a specified job opening and the personnel file for the district's in-house counsel. You state the district is releasing a majority of the responsive information to the requestor. We understand the district has redacted certain information under section 552.117(a)(1) of the Government Code pursuant to section 552.024 of the Government Code and a social security number pursuant to section 552.147(b) of the Government Code.¹ We also understand the district has redacted a personal e-mail address under section 552.137 of the Government Code pursuant to Open Records Decision

¹Section 552.024 of the Government Code authorizes a governmental body to redact from public release certain personal information of a current or former employee excepted from disclosure under section 552.117(a)(1) of the Government Code without the necessity of requesting a decision from this office under the Act, if the employee timely elected to withhold such information. *See* Gov't Code §§ 552.024(a)-(c), .117(a)(1); *see also id.* § 552.024(a-1) (a school district may not require an employee or former employee of the district to choose whether to allow public access to the employee's or former employee's social security number). 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 office under the Act. *Id.* § 552.147(b).

No. 684 (2009).² You claim some of the submitted information is excepted from disclosure under section 552.102 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.³

Section 552.102(b) 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). We must consider whether the Legislature intended the term “professional public school employee” in section 552.102(b) to include the district’s in-house counsel. Section 552.102(b) does not define “professional public school employee.” When construing a statute, a court may consider the circumstances under which the Legislature enacted the statute as well as its legislative history. *Id.* § 311.023(2), (3); *City of Rockwall v. Hughes*, 246 S.W.3d 621, 626 n.6 (Tex. 2008). In 1989, the Legislature passed Senate Bill 404 (“S.B. 404”) as an amendment to the Act to include the statutory predecessor to section 552.102(b). The Senate sponsor of S.B. 404, Senator Don Henderson, stated before the Senate Committee for State Affairs the bill was a response to “people trying to get past a teacher’s degree, past a teacher’s hiring, . . . [and] past a school board’s determination that a teacher was qualified to teach[.]” Hearing on S.B. 404 Before the Senate Comm. for State Affairs, 71st Leg., R.S. (February 27, 1989) (statement of Senator Henderson) (recording available from Senate Staff Services Office). During the Senate floor debate of the bill, Senator Henderson further questioned the purpose of “any citizen being able to look at any teacher’s transcript” because “there are several other means by which we say teachers are qualified to teach in this state.” *Id.*; see also Debate on Tex. S.B. 404 on the Floor of the Senate, 71st Leg., R.S. (March 13, 1989) (statement of Senator Henderson describing S.B. 404 as relating to privacy of a teacher’s transcript; statement of Senator Caperton summarizing S.B. 404 as balancing public’s right to know with teacher’s right of privacy) (recording available from Senate Staff Services Office). In addition, Representative Paul J. Hilbert, the House sponsor of S.B. 404, stated during the debate on the House floor that the statute was intended to protect teachers’ college transcripts. See Debate on Tex. S.B. 404 on the Floor of the House, 71st Leg., R.S. (May 10 and 11, 1989) (statements of Representative Hilbert introducing S.B. 404 as applying to transcripts of teachers) (recording available from House Video/Audio Services). Therefore, we believe the legislative history of section 552.102(b) shows the Legislature enacted the predecessor statute to section 552.102(b) to protect the transcripts of only professional

²Open Records Decision No. 684 serves as a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including personal e-mail addresses under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision. See ORD 684.

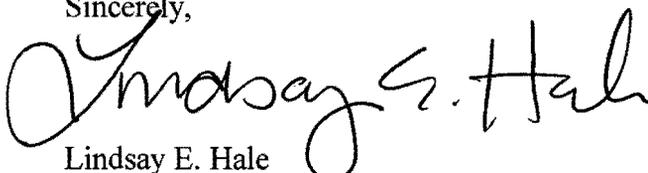
³This letter ruling assumes that the submitted representative sample of information is truly representative of the requested information as a whole. This ruling does not reach, and therefore does not authorize, the withholding of any other requested information to the extent that the other information is substantially different than that submitted to this office. See Gov’t Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

educators, rather than the transcripts of all public school employees. *See* Open Records Decision No. 526 (1989) (addressing predecessor statute in light of previous lack of exception for “qualifications of professional public school employees *to teach*”) (emphasis added). Thus, as you have not established the district’s in-house counsel is an educator for purposes of section 552.102(b), this exception is not applicable to the submitted transcripts. Accordingly, the district may not withhold any of the submitted information under section 552.102(b) of the Government Code. *See* Open Records Decision Nos. 470, 467 (1987) (public has legitimate interest in job qualifications, including college transcripts, of public employees). As no further exceptions to disclosure have been raised, the district must release the submitted information.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/tch

Ref: ID# 513796

Enc. Submitted documents

c: Requestor
(w/o enclosures)