



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 2, 2015

Mr. Miles LeBlanc
Assistant General Counsel
Houston Independent School District
4400 West 18th Street
Houston, Texas 77092-8501

OR2015-13413

Dear Mr. LeBlanc:

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# 569973.

The Houston Independent School District (the "district") received a request for any records reflecting (1) changes in job, titles, roles, assignments, responsibilities or compensation and (2) disciplinary action, reprimands, warnings, conferences for the record, or similar information during a specified period of time or related to the Office of Internal Audit's 2015 audit of job-order contract procurement. Although you raise no exceptions to disclosure on behalf of the district, you state release of the submitted information may implicate the privacy interests of four district employees.¹ You indicate you have notified these interested employees. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released). You inform us the

¹ We note, and the district acknowledges, the district did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(b), (e). Nonetheless, because section 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

third parties object to the release of their information based on common-law privacy. We have reviewed the submitted representative sample of information.²

Initially, we note you have only submitted documents responsive to the portion of the request seeking “conferences for the record.” To the extent any additional responsive information existed when the district received the request for information, we assume it has been released. If any such information has not been released, the district must do so at this time. *See* Gov’t Code §§ 552.301, .302; *see also* Open Records Decision No. 644 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. Section 552.101 of the Government Code encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which 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). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. Types of information considered intimate or embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. However, this office has noted the public has a legitimate interest in information that relates to public employees and their conduct in the workplace. *See e.g.*, Open Records Decision Nos. 562 at 10 (1990) (personnel file information does not involve most intimate aspects of human affairs but in fact touches on matters of legitimate public concern), 470 at 4 (1987) (job performance does not generally constitute public employee’s private affairs), 444 at 3 (1986) (public has obvious interest in information concerning qualifications and performance of government employees), 405 at 2 (1983) (manner in which public employee’s job was performed cannot be said to be of minimal public interest), 329 (1982) (reasons for employee’s resignation ordinarily not private). Although you claim common-law privacy on behalf of the employees, we find you have failed to demonstrate any of the information is highly intimate or embarrassing and not of legitimate public concern. Thus, the district may not withhold any of the submitted information under section 552.101 of the Government Code in conjunction with common-law privacy and it 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.

² We assume the “representative sample” of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

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,

A handwritten signature in black ink that reads "Katelyn Blackburn-Rader". The signature is written in a cursive style with a large initial "K".

Katelyn Blackburn-Rader
Assistant Attorney General
Open Records Division

KB-R/akg

Ref: ID# 569973

Enc. Submitted documents

c: Requestor
(w/o enclosures)