



**THE ATTORNEY GENERAL  
OF TEXAS**

July 26, 1989

**JIM MATTOX  
ATTORNEY GENERAL**

Dr. Wayne Blevins  
Superintendent  
Alief Independent School  
District  
P. O. Box 68  
Alief, Texas 77411

Open Records Decision No. 526

Re: Public availability of  
education transcripts of  
professional public school  
employees under Senate Bill  
No. 404 of the 71st Texas  
Legislature (RQ-1736)

Dear Mr. Blevins:

You received a request under the Open Records Act for information from teacher transcripts held by the Alief Independent School District. You ask about the effect of Senate Bill No. 404 of the 71st Texas Legislature on the public availability of professional public school employees' college transcripts. Senate Bill No. 404 was effective when signed by the Texas Governor on May 17, 1989. Under the Texas Open Records Act, article 6252-17a, V.T.C.S., all information held by governmental bodies is public unless one or more of the act's exceptions protects the information. Attorney General Opinion JM-672 (1987). Your question is whether Senate Bill No. 404 creates a new exception to disclosure.

Several previous open records decisions of this office addressed the public availability of professional public school employees' college transcripts. See, e.g., Open Records Decision Nos. 467 (1987) (college transcripts of teachers in the McAllen Independent School District are public); 284 (1981) (college transcripts in the Richardson Independent School District are public). Additionally, in Klein Indep. School Dist. v. Mattox, 830 F.2d 576 (5th Cir. 1987), cert. denied, 108 S.Ct. 1473 (1988), the Fifth Circuit upheld an informal open records decision that the college transcripts of teachers in the Klein Independent School District are public. These decisions rest on the premise that the constitutional and common-law privacy rights recognized in sections 3(a)(1) and 3(a)(2) of the Open Records Act do not prohibit the public release of information about the courses taken and the grades received

by professional public school employees when this information constitutes the basis for public employment.<sup>1</sup>

This office also held that "new" developments in Texas constitutional privacy rights do not extend to protection of professional public school employees' college transcripts. See Houston Chronicle Publishing Co. v. Mattox, 767 S.W.2d 695 (Tex. 1989). The decision in Texas State Employees Union v. Texas Dep't of Mental Health and Mental Retardation, 746 S.W.2d 203 (Tex. 1987), is not applicable to the disclosure of the qualifications of professional public school employees to teach, i.e., courses taken, grades received, and general academic performance. Disclosing the job qualifications that a public employee has submitted to a public employer is not the equivalent of asking public employees the intrusive type of questions at issue in the Texas State Employees Union case, i.e., whether their parents use drugs or whether they beat their children.

The Texas Legislature, however, created a new statutory exception to protect certain portions of professional public school employees' college transcripts. Senate Bill No. 404 amended section 3(a)(2), the personnel file exception, to protect

transcripts from institutions of higher education maintained in the personnel files of professional public school employees; provided, however, that nothing in this section shall be construed to exempt from disclosure the degree obtained and the curriculum on such transcripts of professional public school employees.

Acts 1989, 71st Leg., ch. \_\_\_\_, at \_\_\_\_.

In light of this amendment, governmental bodies must edit from professional public school employees' transcripts information other than the employee's name, the degree obtained, and the courses taken. For example, grades must

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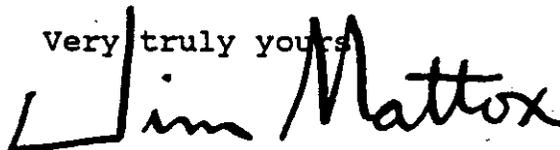
1. Prior to amendment by the 71st Texas Legislature, section 3(a)(2) of the Open Records Act, article 6252-17a, V.T.C.S., did not protect more information than that protected by section 3(a)(1). See Hubert v. Harte-Hanks Texas Newspapers, Inc., 652 S.W.2d 546, 550 (Tex. App. - Austin 1983, writ ref'd n.r.e.).

be deleted as well as any extraneous information, such as religious preference, appearing on the transcripts.

S U M M A R Y

Senate Bill No. 404 of the 71st Texas Legislature created a new statutory exception to the Texas Open Records Act, article 6252-17a, V.T.C.S., to protect certain portions of professional public school employees' college transcripts from required public disclosure. Governmental bodies that hold such transcripts from institutions of higher education in the personnel files of professional public school employees must edit from the transcripts all information other than the employee's name, the courses taken, and the degree(s) obtained.

Very truly yours

A handwritten signature in black ink that reads "Jim Mattox". The signature is written in a cursive style with a large, prominent "J" and "M".

J I M M A T T O X  
Attorney General of Texas

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