



**THE ATTORNEY GENERAL
OF TEXAS**

**JIM MATTOX
ATTORNEY GENERAL**

April 13, 1989

Mrs. Sue Daniel
Potter County Clerk
Box 9638
Amarillo, Texas 79105

Dear Mrs. Daniel:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 5909; this decision is OR89-124.

Under the Open Records Act, all information held by governmental bodies is open unless the information falls within one of the act's specific exceptions to disclosure. The act places on the custodian of records the burden of proving that records are excepted from public disclosure. If a governmental body fails to claim an exception, the exception is ordinarily waived unless the information is deemed confidential under the act. See Attorney General Opinion JM-672 (1987). The act does not require this office to raise and consider exceptions that you have not raised.

Potter County Received a request from the Equal Employment Opportunity Commission (EEOC) for job evaluations. You ask whether the evaluations are exempt from disclosure under section 3(a)(2) of the Open Records Act.

Section 3(a)(2) protects personnel file information only if its release would cause an invasion of privacy under the test articulated for section 3(a)(1) of the act. Hubert v. Harte-Hanks Texas Newspapers, Inc., 652 S.W.2d 546, 550 (Tex. App. - Austin 1983, writ ref'd n.r.e.). The disclosure of even highly subjective evaluations of an employee does not ordinarily constitute an invasion of privacy for purposes of obtaining the protection of section 3(a)(2). See Attorney General Opinion JM-36 (1983); Open Records Decision No. 167 (1977). Moreover, the EEOC has a special statutory right of access to certain information. See Open Records Decision No. 111 (1975).

Mrs. Sue Daniel
April 13, 1989
Page 2

For these reasons, the job evaluations requested by the EEOC are not exempt from disclosure under section 3(a)(2) of the Open Records Act. Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR89-124.

Yours very truly,

Open Government Section
of the Opinion Committee 

Open Government Section
of the Opinion Committee
Prepared by Jennifer S. Riggs
Chief, Open Government Section

JSR/MAK/bc

Ref.: ID# 5909