



**THE ATTORNEY GENERAL  
OF TEXAS**

**JIM MATTOX  
ATTORNEY GENERAL**

August 7, 1989

Mr. Douglass Shands  
Superintendent  
Huffman Independent School District  
24403 Lake Houston Parkway  
Huffman, Texas 77336

Dear Mr. Shands:

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# 6942; this decision is OR89-237.

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.

The Huffman Independent School District received a request for the certified agenda of an executive session held by the school board of trustees. The individual requesting the information claims a special right to it based on the fact that she attended the meeting. You assert that section 3(a)(1) of the Open Records Act protects the certified agenda from required public disclosure.

Section 3(a)(1) protects information "deemed confidential by law," including statute. Section 2A(c) of the Texas Open Meetings Act, article 6252-17, V.T.C.S., makes confidential the certified agendas of executive sessions held pursuant to the Open Meetings Act. Open Records Decision No. 495 (1988). You may therefore withhold the certified agenda from public disclosure.

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You indicate that the requestor claims a special right of access to the certified agenda. With the exception of provisions expressly recognizing the legislature's right to certain information, see § 14(c), and a student's or his parents' right of access to certain education records, see § 3(a)(14), the Open Records Act does not govern or create special rights of access. See Attorney General Opinion MW-381 (1981). Any special rights of access that may exist are governed by the law that created them. For example, in Hutchins v. Texas Rehabilitation Comm'n, 544 S.W.2d 802 (Tex. Civ. App. - Austin 1976, no writ), the court recognized that the common-law right of access entitles a former patient to inspect records about herself. See also Attorney General Opinions H-626 (1975); H-249 (1974). Additionally, members of a governmental body are entitled to access to certified agendas. See generally Attorney General Opinion JM-119 (1983). The Open Records Act itself, however, does not grant an individual a right of access to the certified agendas of an executive session simply because the individual attended the executive session. But see Attorney General Opinions JM-238 (1984); MW-417 (1981) (governmental body may not be authorized to admit "outside" persons to executive sessions).

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 OR89-237.

Yours very truly,

*Open Government Section*  
*of the Opinion Committee*

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Prepared by Jennifer S. Riggs  
Chief, Open Government Section

JSR/bc

Ref.: ID# 6942

Enclosures: ORD-495  
JM-119  
JM-238  
MW-417