



Office of the Attorney General  
State of Texas

April 30, 1992

DAN MORALES  
ATTORNEY GENERAL

Mr. Donald J. Walheim  
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San Antonio, Texas 78212

OR92-178

Dear Mr. Walheim:

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# 15265.

The Edgewood Independent School District (the "school district"), which you represent, has received two requests for information relating to certain school district social workers. The first request seeks information about the social workers' professional qualifications, organization membership, and circumstances of employment. Specifically, the requestor asks the following:

1. Did Lorraine Clark and Mary Pacheco hold membership in a national organization of social workers?
2. Do Anna Monreal and Diettra Simmons hold membership in a national organization of social workers?
3. Are Anna Monreal and Diettra Simmons bilingual (Spanish)?
4. What role did the principals of their assigned schools have in the selection of Ms. Monreal and Ms. Simmons?

5. What was the beginning date of employment for Ms. Monreal and Ms. Simmons?
6. How many male applicants for social worker positions have there been the past five years? . . .
7. Please provide the following information on the two newest social workers hired new to those positions (not the teen parent social worker):
  - A. Name of each and the schools to which they were assigned.
  - B. The degree held by each.
  - C. The national certification held by each.
  - D. The years and kinds of experience held by each.
  - E. Are either or both of them bilingual (Spanish)?
  - F. The date and location at which each were interviewed.
  - G. The names of the interviewers.
  - H. What role did the campus principals have in the selection process?

The second request was submitted following the district's failure to provide the requested information. In her second request, the requestor seeks access to the personnel files of the school district employees at issue in her first request. Apparently, the requestor seeks access to the personnel files in order to obtain the information requested in her first request. Accordingly, we will treat the requestor's request for access to the personnel files to encompass only those items requested in the first request. The requestor also seeks "TTAS [Texas Teacher Appraisal System] results from Hoelscher Elementary from 1985 until 1991" and from "Loma Park Elementary for the years 1989-90 and 1990-91." In addition, the requestor seeks "copies of the transcripts and teaching certificates for [seven school district employees] at Kennedy High School," including herself. The requestor does not seek the grades on the transcripts, which she states "will need to be marked out."<sup>1</sup>

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<sup>1</sup>Because the requestor has not requested any information about Mr. Coronado, it is not necessary to address whether she has properly demonstrated that she is his authorized representative.

by which public records may be inspected efficiently, safely, and without delay," see V.T.C.S. art. 6252-17a, § 13, regulations or procedures promulgated under section 13 may not deny access to public information. Attorney General Opinion H-621 (1975). Moreover, section 13 does not authorize governmental bodies to promulgate rules governing the form of open records requests.

We have reviewed the first request. In it the requestor states, "I am requesting the following information . . . ," and "[p]lease provide the following information." We conclude that this letter clearly constitutes a request for information within the terms of the Open Records Act even though the act is not specifically named. Accordingly, the requestor's failure to cite the Open Records Act does not excuse the school district's failure to comply with section 7(a).

You also contend that the vague nature of the request relieves the school district of its obligation to comply with section 7(a). A governmental body is obligated to make a good faith effort to relate a request to information which it holds. Open Records Decision No. 561 (1990) at 8. When a governmental body is presented with a vague request for information rather than for specific records, it should advise the requestor of the types of information available so that he may narrow his request. *Id.* at 9. The Open Records Act does not require a governmental body to answer factual questions. See, e.g., Open Records Decision Nos. 555 (1990); 379 (1983); 347 (1982). The vague nature of a request, however, does not excuse a governmental body from treating it as an open records request and complying with the requirements of the Open Records Act. See Open Records Decision No. 561 (1990).

You also claim that the requestor's failure to abide by school district regulations concerning the proper procedures for requesting information excuses the school district's failure to comply with section 7(a) because the requestor is a school district employee. You contend that school district employees should be required to follow the school district's regulations concerning inspection of public records. We disagree. Section 5(c) of the Open Records Act provides:

The officer for public records or the officer's agent shall treat each request for information uniformly without regard to the position or occupation of the person making the request or the person on whose behalf the request is made . . . .

The fact that the requestor is a school district employee is irrelevant under the Open Records Act and does not relieve the school district of its obligation under section 7(a).

In sum, we conclude that there is no excuse for the school district's failure to comply with section 7(a). When a governmental body fails to request a decision within 10 days of receiving a request for information, the information at issue is presumed public. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.—Austin 1990, no writ); *City of Houston v. Houston Chronicle Publishing Co.*, 673 S.W.2d 316, 323 (Tex. App.—Houston [1st Dist.] 1984, no writ); Open Records Decision No. 319 (1982). The governmental body must show a compelling reason to withhold the information to overcome this presumption. *See id.* Normally, the presumption of openness can be overcome only by a compelling demonstration that the information should be released to the public, *i.e.*, that the information is deemed confidential by some other source of law or that third party interests are at stake. Open Records Decision No. 150 (1977).

The requestor seeks teaching certificates, transcripts (with grades marked out), TTAS results, professional organization membership information, information relating to the qualifications of certain school district employees, employee assignments, and other information relating to the hiring of and employment of the employees. You claim that this information is excepted from required public disclosure by sections 3(a)(1) and 3(a)(2) of the Open Records Act, both of which protect third party interests.

Section 3(a)(1) excepts "information deemed confidential by law, either Constitutional, statutory, or by judicial decision." Section 3(a)(1) excepts information from required public disclosure if its release would cause an invasion of privacy under the test articulated by the Texas Supreme Court in *Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Information may be withheld on common-law privacy grounds only if it is highly intimate or embarrassing and is of no legitimate concern to the public. The test for constitutional privacy involves a balancing of the individual's privacy interests against the public's need to know information of public concern. *Industrial Foundation*, 540 S.W.2d at 685. "The constitutional right of privacy protects information relating to marriage, procreation, contraception, family relationships, and child rearing and education." Open Records Decision No. 447 (1986) at 4. 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 by the Texas Supreme Court in *Industrial Foundation. Hubert v. Harte-Hanks Texas Newspapers*, 652 S.W.2d 546 (Tex. App.--Austin 1983, writ ref'd n.r.e.); *see also* Open Records Decision No. 441 (1986). It also expressly protects "transcripts from institutions of higher education maintained in the personnel files of professional public school employees." V.T.C.S. art. 6252-17a, § 3(a)(2). 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. Open Records Decision No. 526 (1989). The remainder of the transcript is protected from required public disclosure under section 3(a)(2).

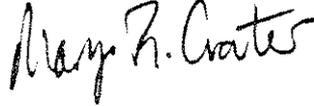
Accordingly, the transcripts, with the exception of the employees' names, courses taken, and degree obtained, are protected. The remainder of the requested information, however, is not highly intimate or embarrassing and is of legitimate public concern. Nor does it involve the highly intimate interests protected by the doctrine of constitutional privacy. Information previously held by this office not to be protected by common-law and constitutional privacy interests includes, for example, applicants' and employees' educational training, names and addresses of former employers, dates of employment, kind of work, salary, and reasons for leaving, names, occupations, addresses and phone numbers of character references, job performance or ability, birth dates, height, weight, marital status, and social security numbers. *See* Open Records Decision No. 455 (1987); *see also* Open Records Decision Nos. 470, 467 (1987); 444 (1986); 421 (1984); 405 (1983). We conclude that the remainder of the requested information is not the type ordinarily excepted from required public disclosure by common law or constitutional privacy. Accordingly, it may not be withheld under section 3(a)(1) of the Open Records Act.

You also claim that some of the requested information is excepted from required public disclosure by sections 3(a)(8) and 3(a)(11). You have not made a compelling showing, however, that this information is excepted from required public disclosure by statute or common law or that third party interests are at stake. Accordingly, none of the requested information may be withheld under sections 3(a)(8) and 3(a)(11). Thus the requested information must be made available to the requestor.

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 OR92-178.

Yours very truly,

A handwritten signature in cursive script that reads "Mary R. Crouter".

Mary R. Crouter  
Assistant Attorney General  
Opinion Committee

MRC/GK/mc

Ref.: ID# 15265