



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 7, 1992

Ms. Bernadette Baca Gonzales
Staff Attorney
Lamar Consolidated Independent School District
3911 Avenue I
Rosenberg, Texas 77471

OR92-193

Dear Ms. Gonzales:

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# 15599.

The Lamar Consolidated Independent School District (the "school district"), which you represent, has received a request for information relating to the salaries and experience level of school district administrative personnel. Specifically, the requestor seeks "a listing of all current [school district] administrative salaries" and "the number of years of experience in administration listed along with each individual's name and yearly salary as well as daily dock rate." You advise us that the names and salaries of school district administrators have been made available to the requestor. You further advise us that the school district does not compile information regarding "the number of years of experience in administration" and the "daily dock rate" in the form requested, although such information is reflected in personnel files.

You ask whether the school district is obligated under the Open Records Act to prepare information in the form requested. The Open Records Act does not require the preparation of information in a form requested by a member of the public. Open Records Decision No. 467 (1987). Accordingly, you are under no obligation under the Open Records Act to prepare a list reflecting "the number of years of experience in administration" and the "daily dock rate" in the form requested.

Because you believe that the requestor seeks documents which would provide the raw data from which the requested information could be calculated, you have submitted to us for review representative samples of administrators' teacher

service records which include information about the experience of school district administrators and their sick leave. You claim that information in these records, specifically social security numbers, sick leave earned and sick leave used, is excepted from required public disclosure by privacy interests as incorporated into the Open Records Act by sections 3(a)(1) and 3(a)(2).

Section 3(a)(1) excepts from required public disclosure "information deemed confidential by law, either Constitutional, statutory, or by judicial decision." Section 3(a)(1) excepts information 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*, 540 S.W.2d 668. See *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).

We have examined the information submitted to us for review and conclude that it 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. This office has concluded that similar information is not protected under sections 3(a)(1) and 3(a)(2). Personnel information previously held by this office not to be protected by common law and constitutional privacy interests includes, for example, dates of employment, kind of work, job performance or ability, 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). Similarly, this office has held that the identity of an employee who uses sick leave and the dates of that use are not protected by common law privacy. See Open Records Decision Nos. 336 (1982); 298, 284 (1981). Accordingly, the requested

information may not be withheld under sections 3(a)(1) and 3(a)(2) of the Open Records Act and must be released.¹

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 OR92-193.

Yours very truly,



Mary R. Crouter
Assistant Attorney General
Opinion Committee

MRC/GK/mc

Ref.: ID# 15599

cc: Ms. Cassandra J. Keen
Taylor Ray Intermediate School
2611 Avenue N
Rosenberg, Texas 77471

¹You also ask whether the Open Records Act requires a governmental body to notify an employee when information contained in his personnel file has been released to the public. No such requirement currently exists under the Open Records Act. In response to your query about costs, we note that if public information is intertwined with confidential information, or if an extensive physical search is required, the requestor may be charged for overhead and labor in deleting non-disclosable information or separating disclosable from non-disclosable information. See Open Records Decision No. 488 (1988); see also V.T.C.S. art. 6252-17a, § 9.