



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 11, 1992

Ms. Priscilla A. Lozano
The University of Texas System
Office of General Counsel
201 W. Seventh St.
Austin, Texas 78701-2981

OR92-247

Dear Ms. Lozano:

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# 15635.

The University of Texas at Austin (the university) received an open records request for, *inter alia*, the payroll records, reimbursements, and vouchers used for student reporters' reporting assignments for the Daily Texan, a student publication. You state that it is the position of the university that such documents constitute student records and as such their release is prohibited by sections 3(a)(1) and 14(e) of the Open Records Act.

Section 3(a)(1) of the act protects "information deemed confidential by law, either Constitutional, *statutory*, or by judicial decision." (Emphasis added.) Section 14(e) of the Open Records Act provides as follows:

Nothing in this Act shall be construed to require the release of information contained in *education records* of any educational agency or institution except in conformity with the provisions of the Family Educational Rights and Privacy Act of 1974, as enacted by Section 513 of Public Law 93-380, codified as Title 20 U.S.C.A. Section 1232g, as amended. [Emphasis added.]

The Family Educational Rights and Privacy Act of 1974, which is informally known as "the Buckley Amendment," provides that no federal funds will be made available under any applicable program to an educational agency or institution that releases education records (or personally identifiable information contained therein

other than directory information) of students without the written consent of the parents to anyone but certain numerated federal, state, and local officials and institutions. *See* 20 U.S.C. § 1232g (a)(1)(A), (a)(2), (b)(1). When a student has attained the age of eighteen years or is attending an institution of post-secondary education, the student holds the rights accorded by Congress to authorize the release of his or her education records. 20 U.S.C. § 1232g(d).

"Education records" means those records that contain information directly related to a student and are maintained by an educational agency or institution or by a person acting for such agency or institution." 20 U.S.C. § 1232g(a)(4)(A). The federal regulations governing the release of "education records" further provide that "[r]ecords relating to an individual in attendance at [an educational institution] who is employed *as a result of his or her status as a student* are education records" *See* 34 C.F.R. § 99.3 (*Education records* (b)(3)(ii)) (emphasis added). Based on your assertion that all Daily Texan reporters must have student status, the records at issue constitute "education records" for purposes of the Buckley Amendment and so may only be released with the written permission of each individual student.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 OR92-247.

Yours very truly,



Susan Garrison
Assistant Attorney General
Opinion Committee

¹The Buckley Amendment also establishes a category of records known as "directory information," which may be publicly released after certain general notice is given. 20 U.S.C. § 1232g(a)(5)(A). While this office believes that the requested information could constitute "directory information," *see, e.g.,* Open Records Decision No. 151 (1977) (university may release as "directory information" its list of former students credited with funds remaining in their general property deposit) (copy enclosed), the designation of a particular category of information as "directory information" is at the discretion of the university. *See* 20 U.S.C. § 1232g(a)(5); 34 C.F.R. §§ 99.3 (*Directory information* defined), 99.37(a)(1).

SG/RWP/lmm

Ref.: ID# 15635
ID# 15802

Enclosure: Open Records Decision No. 151

cc: Mr. Roddy de la Garza
Ms. Laura Munoz
TEJAS
University of Texas at Austin
CMA 4.114
Austin, Texas 78705
(w/o enclosures)