



Office of the Attorney General
State of Texas

July 14, 1993

DAN MORALES
ATTORNEY GENERAL

Ms. Michelle Willhelm
Superintendent
Alief Independent School District
P.O. Box 68
Alief, Texas 77411

OR93-459

Dear Ms. Willhelm:

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# 19713.

The Alief Independent School District (the "school district") has received a request for information relating to a certain school district employee. Specifically, the requestor seeks "an immediate opportunity to review each and every document in the possession of Alief ISD alleging an act of wrongdoing by Coach Sciba." You claim that sections 3(a)(1) and 3(a)(11) of the Open Records Act except the requested information from required public disclosure.

Section 3(a)(1) excepts from required public disclosure "information deemed confidential by law, either Constitutional, statutory, or by judicial decision." You claim that the requested information is excepted from required public disclosure by section 3(a)(1) in conjunction with the work product and investigative privileges. Section 3(a)(1) of the Open Records Act, however, does not encompass work product, investigative, or other "discovery privileges." Open Records Decision No. 575 (1990). Information that is protected by such privileges may be excepted from disclosure under section 3(a)(3), if the situation meets the section 3(a)(3) requirements. *Id.* In order to fall within the section 3(a)(3) exception, information must relate to litigation that is pending or reasonably anticipated. *See* Open Records Decision No. 551 (1990). You have not raised the section 3(a)(3) exception nor have you demonstrated that the requested information is related to any pending or anticipated litigation. Consequently, we conclude that neither section 3(a)(1) nor section 3(a)(3) excepts the requested information from required public disclosure.

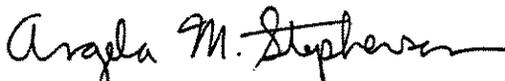
You also claim that the requested information constitutes "inter-agency or intra-agency memorandums or letters which would not be available by law to a party in

litigation with the agency" under section 3(a)(11) of the act and, therefore, is excepted from public disclosure. Some of the documents you have submitted for our review clearly do not constitute internal memoranda containing communications between school district employees. Such documents, *e.g.*, store receipts, bank statements, and bills from outside merchants, do not fall within the section 3(a)(11) exception in any event.

Furthermore, in Open Records Decision No. 615 (1993) (copy enclosed), this office recently reexamined the section 3(a)(11) exception and held that section 3(a)(11) excepts only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body at issue. An agency's policymaking functions, however, do not encompass internal administrative or personnel matters; disclosure of information relating to such matters will not inhibit free discussion among agency employees as to policy issues. *Id.* at 5-6. As the information submitted to us for review relates to an internal administrative and personnel matter, *i.e.* an investigation of the actions of an individual employee of the school district and the subsequent resignation of that employee, we conclude that section 3(a)(11) does not except it from required public disclosure. Accordingly, the school district must release the requested information in its entirety.

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 contact this office.

Yours very truly,



Angela M. Stepherson
Assistant Attorney General
Open Government Section

AMS/GCK/jmn

Enclosure: Open Records Decision No. 615

Ref.: ID# 19713
ID# 20030

cc: Mr. Jefferson K. Brim, III
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114 West 7th Street, Suite 100
Austin, Texas 78701-3005
(w/o enclosures)