



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN, TEXAS 78711**

**JOHN L. HILL  
ATTORNEY GENERAL**

July 28, 1975

The Honorable M. L. Brockette  
Commissioner of Education  
Texas Education Agency  
201 East Eleventh Street  
Austin, Texas 78701

Opinion No. H-651

Re: Whether a school district  
operating under a consultation  
agreement may meet in closed  
session.

Dear Dr. Brockette:

You have asked our opinion on a question involving the legality of certain closed meetings by school boards operating under consultation agreements.

The Texas Open Meetings Act, article 6252-17, V. T. C. S. provides in part:

Sec. 2 (a) Except as otherwise provided in this Act or specifically permitted in the Constitution, every regular, special, or called meeting or session of every governmental body shall be open to the public; and no closed or executive meeting or session of any governmental body for any of the purposes for which closed or executive meetings or sessions are hereinafter authorized shall be held unless the governmental body has first been convened in open meeting or session for which notice has been given as hereinafter provided and during which open meeting or session the presiding officer has publicly announced that a closed or executive meeting or session will be held and identified the section or sections under this Act authorizing the holding of such closed or executive session.

...

(g) Nothing in this Act shall be construed to require governmental bodies to hold meetings open to the public in cases involving the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee or to hear complaints or charges against such officer or employee, unless such officer or employee requests a public hearing.

...

(m) Nothing in this Act shall be construed to require school boards operating under consultation agreements provided for by Section 13.901 of the Texas Education Code to deliberate in open meetings regarding the standards, guidelines, terms or conditions it will follow or instruct its representatives to follow, in consultation with representatives of employee groups.

Attorney General Opinion H-496 (1975) involved section 2(g) of the Open Meetings Act. In that opinion we said:

It is evident that section 2(g) was intended to cover the various aspects of an individual's employment relationship with the governmental body and in our opinion the section includes discussions pertaining to the setting and adjusting of an individual's salary since such discussions necessarily involve an evaluation of the employee's performance.

Consequently, you are advised that a school district may discuss in closed session the raising, lowering, or establishing of the salary of an individual employee, provided that the meeting is publicized as required by section 3A and that any closed session is first announced in open meeting as specified in section 2(a). Also, note the requirement of section 2(l) that all formal action be taken in public and the provision of section 2(g) giving employees and officers the right to a public hearing on their request.

In light of that opinion you ask:

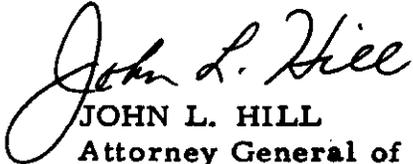
in view of the express provisions of Section 2(m) of Article 6252-17, may a school district board meet in executive (closed) meeting for discussion on salary schedules for a class of employees represented under a district (Education Code Section [13.901]) consultation agreement?

The question discussed in Attorney General Opinion H-496 concerned only section 2(g) and did not involve or discuss section 2(m). Section 2(m) specifically permits a school district operating under a section 13.901 agreement to meet in executive session regarding the standards, guidelines, terms or conditions it will follow or instruct its representatives to follow in consultation with representatives of an employee group. Therefore, a school board represented under a district consultation agreement may meet in executive session to discuss salary schedules for a class of employees to the extent that the discussion regards the terms or conditions it will follow in the consultation proceedings.

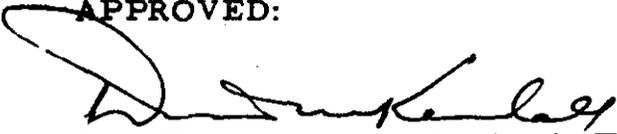
#### SUMMARY

A school district operating under a consultation agreement pursuant to section 13.901 of the Education Code may meet in closed session regarding standards, guidelines, terms or conditions it will follow or instruct its representatives to follow in consultation with representatives of an employee group.

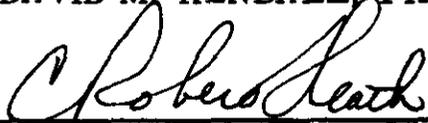
Very truly yours,

  
JOHN L. HILL  
Attorney General of Texas

APPROVED:



DAVID M. KENDALL, First Assistant



C. ROBERT HEATH, Chairman  
Opinion Committee

jwb