



THE ATTORNEY GENERAL  
OF TEXAS

AUSTIN, TEXAS 78711

JOHN L. HILL  
ATTORNEY GENERAL

January 13, 1977

The Honorable Jess M. Irwin, Jr.  
Commissioner for Rehabilitation  
Texas Rehabilitation Commission  
7745 Chevy Chase Drive  
Austin, Texas 78752

Open Records Decision No. 150

Re: Report of investigation  
of certain proprietary  
schools.

Dear Mr. Irwin:

You have requested our decision whether portions of a report of an investigation of certain proprietary schools is excepted from required public disclosure under the Open Records Act, article 6252-17a, V.T.C.S., by section 3(a)(11) as interagency memoranda, and whether information in the report identifying clients of the Commission is excepted by section 3(a)(1) of the Act as information deemed confidential by law, specifically section 30.47, Texas Education Code.

The information was requested on October 14, 1976. Your request for our decision was dated October 20, 1976. On November 3, 1976, we requested you to provide a copy of the request letter and to specify with particularity the information in the report which you believed to be excepted by the claimed exceptions. You responded by letter dated December 15, 1976, received on December 21, 1976.

This office cannot make a decision pursuant to section 7 of the Act without the necessary information before us. We must know the identity of the requestor for purposes of notice, the date of receipt to determine compliance with the Act's time limits, and the substance of the request. The best evidence of this is the initiating written request for information.

Section 7(b) of the Act requires that the "specific information" at issue be presented in order for us to make a decision. The Act clearly requires the agency to determine what specific exception applies to what specific information, and then to present that claim of the applicability of an exception to this office within a reasonable time for decision. A general claim that an exception applies to an entire file or report, when the exception clearly is not applicable to all of the information in the file or report, simply does not comport with the procedural requirements of the Act. See Open Records Decision No. 91 (1975). The Act requires the agency to act with reasonable specificity within a reasonable time, no later than 10 days, in presenting an issue for our decision.

In this instance, your initial letter of October 20, 1976, did not provide us with the request letter, nor with a sufficiently specific claim to permit us to make any decision. We notified you of these deficiencies, and then more than a month and a half elapsed before we received your response. It is our view that this was a failure to request a decision within a reasonable time as required by section 7(a), and that this delay gives rise to the presumption that the information requested is public.

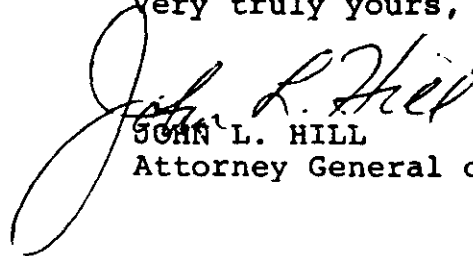
This presumption can only be overcome by a compelling demonstration that the information should not be released to the public, as might be the case if the information is deemed confidential by some other source of law, or if an exception designed to protect the interest of a third party is applicable. Open Records Decision No. 26 (1974). See Open Records Decision Nos. 71 (1975); 44, 34, 31 (1974).

We have inspected the information at issue according to this standard, and finding no compelling demonstration that information claimed to be excepted by section 3(a)(11) should not be released, it is our decision that the information is public except those portions which identify Commission clients. Section 30.47, Texas Education Code, prohibits disclosure of the names of, or information concerning, persons applying for or receiving rehabilitation. We believe that this section can be complied with by excising the names, social security numbers, or other information which would individually identify Commission clients.

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The information requested is presumed to be public, and we find no compelling demonstration that any should not be released except that information which individually identifies clients. Copies of pages with the identifying information which should be deleted are enclosed.

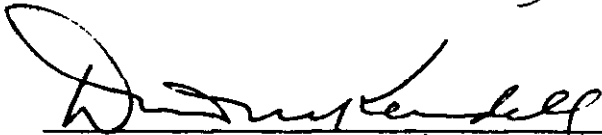
Very truly yours,



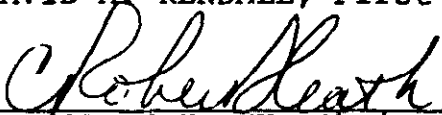
JOHN L. HILL

Attorney General of Texas

APPROVED:



DAVID M. KENDALL, First Assistant



C. ROBERT HEATH, Chairman  
Opinion Committee

jwb