



THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

JOHN L. HILL
ATTORNEY GENERAL

October 24, 1974

The Honorable Richard C. Gibson,
Director
University of Texas System Law Office
601 Colorado
Austin, Texas 78701

Open Records Decision No. 55

Re: Faculty Records

Dear Mr. Gibson:

This open records decision is in response to separate requests made by faculty members of the University that they be given an opportunity to review the contents of all files of the University having to do with their relationship with the University. In response to these requests you have stated:

The University of Texas at Austin is agreeable to make available to Mr. _____ all information in his personnel file pursuant to Subdivision (2) of Section 3(a) of the Act. However, it is our position that such documents as external letters or credentials, inter- or intra-agency communications that have been written with the understanding and expectation of confidentiality, and other documents, if any, that relate to performance evaluation and recommendations on employment renewal or retention that are used solely for internal use, and express personal opinions, are exempt from disclosure under Subdivision (11) of Section 3(a) of Article 6252-17a as "inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than one in litigation with the agency."

Section 3(a) of Article 6252-17a, V. T. C. S., the Open Records Act, in listing exceptions to the general rule that all information collected by government bodies pursuant to law is public information, excepts:

(2) information in personnel files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; provided, however, that all information in personnel files of an individual employee within a governmental body is to be made available to that individual employee or his designated representative as is public information under this Act

and . . .

(1) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than one in litigation with the agency.

You recognize, and we have held, that documents in the personnel file of a college instructor or professor who has been terminated should be made available to him. Open Records Decision 31 (1974). This is so under the express language of Section 3(a)(2), supra, and does not result in the information being made available to the public. See Open Records Decision No. 20 (1974).

Your position, however, appears to be that certain instruments having to do with the qualifications and employment of faculty members are not part of the personnel file. We have been unable to find any judicial determination of the meaning of "personnel file."

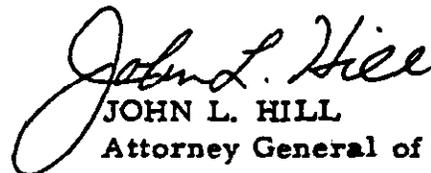
However, in Open Records Decision No. 31 (1974) we stated that the rule in Section 3(a)(2), that all information in personnel files of an individual employee within a governmental body is to be made available to that employee, "should be read broadly to include all information relevant to the individual's employment relationship." It would seem to us that anything bearing upon qualifications for employment, employment and its terms, and separation from employment would constitute information relevant to the individual's employment relationship and be part of a person's personnel file.

You have also expressed concern that some of the material in the personnel file is given with an expectation of confidentiality. Yet, we neither have been pointed to nor have we found any law which would make these records confidential.

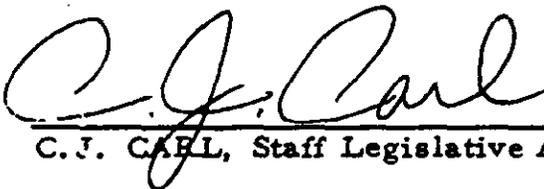
As to subsection 3(a)(11), we agree that subsection would be applicable to these records if the person seeking them were a member of the public. See Open Records Decision No. 20 (1974).

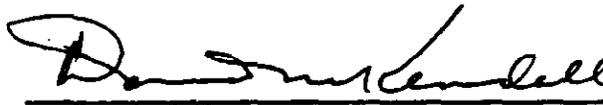
It is our decision, therefore, that information located in the files of the University and having to do with the performance of a faculty member and evaluation of performance vis-a-vis his retention as a faculty member, is information which is made available to the member by Section 3(a)(2) of the Open Records Act.

Very truly yours,


JOHN L. HILL
Attorney General of Texas

APPROVED:


C.J. CARL, Staff Legislative Assistant


DAVID M. KENDALL, Chairman
Opinion Committee