



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN, TEXAS 78711**

**JOHN L. HILL  
ATTORNEY GENERAL**

April 21, 1975

The Honorable John F. Ward  
Superintendent, Friendswood  
Independent School District  
302 Laurel Drive  
Friendswood, Texas 77546

Open Records Decision No. 81

Re: Does the Open Records  
Act require release of a  
preliminary report of a  
school board committee  
after the final report has  
been approved and released.

Dear Dr. Ward:

You have asked our opinion as to the necessity of disclosing a report concerning school conditions and operations, delivered to the Board of Trustees of the Friendswood School District. The report had its genesis in an April 22, 1974, meeting of a group of citizens to discuss problems at the Friendswood High School. A member of the Board of Trustees attended by invitation. The individual was also Chairman of the Board's Communications Committee. Two other members of the Communications Committee attended the meeting, also apparently by invitation. These three, the members of the Communications Committee, compiled and delivered a report, dated April 29, 1974, to the Board, setting out the discussion and the reported problems with regard to the School District. After Board review of the Communications Committee's report, the Committee filed its final report of the citizens' meeting with the Board, the final report being dated November 4, 1974. This final report was printed and distributed to the public.

However, you have been requested to make available the preliminary report of April 29, 1974, and have asked our opinion as to whether it must be furnished under the provisions of the Open Records Act, article 6252-17a, V. T. C. S., inasmuch as you consider the initial report to be an intra-agency memorandum.

Section 3(a)(11) of the Act provides that the following information is excepted from required disclosure:

(11) 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;

In Attorney General Opinion H-436 (1974), we explained that the intra-agency memorandum exception in 3(a)(11) is designed to protect from disclosure advice and opinion on policy matters and to encourage open and frank discussion within a governmental body concerning administrative action.

There we said that to the extent that portions of a document consist of advice and recommendations, those portions are not required to be disclosed. We have inspected the report in question, and find that it consists primarily of factual information which can be severed from the portion containing opinion and advice and can be disclosed. The report basically assembles complaints expressed by the citizens' group. There are some suggestions in the report, which the report explains as follows. "These represent a composite of the suggestions of the attendees obtained during the meeting and some post-meeting thoughts of the Communications Committee." (Emphasis added).

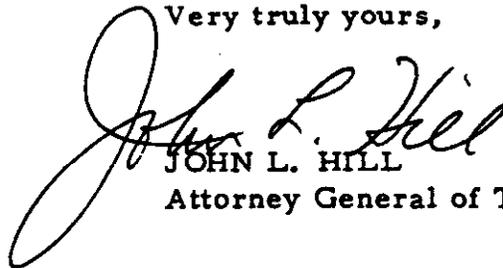
To the extent that the suggestions reflect the preliminary and tentative thoughts and opinions of the committee members, as opposed to being suggestions made by the citizens' group which were simply being reported, we believe that the committee's suggestions for discussion are excepted from disclosure.

The Open Records Act and the Open Meetings Act, article 6252-17, V. T. C. S., have similar purposes and must be construed in harmony. We have held that the minutes of a portion of a meeting properly held in closed session under the Open Meetings Act are excepted from required disclosure under the Open Records Act. Open Records Decision No. 60 (1974). See Open Records Decision No. 68 (1975).

The report in question reflects discussion in a meeting in which complaints and charges were made against identifiable employees. This type discussion could properly be held in a closed session under section 2(g) of the Open Meetings Act. To the extent that the report reflects complaints and charges made against identifiable employees, those portions are excepted from disclosure. However, we do not believe that those portions of the report merely reflecting general complaints without reference to an identifiable individual are excepted from disclosure. See Attorney General Opinion H-496 (1975).

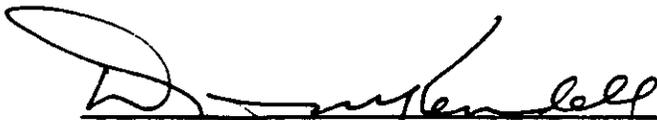
In summary, it is our decision that those portions of the report reflecting the preliminary and tentative suggestions of members of the committee are excepted from disclosure under section 3(a)(11) of the Open Records Act. Also, those portions of the report reflecting complaints and charges against identifiable individuals are excepted from disclosure by operation of sections 3(a)(1) and 3(a)(2) of the Open Records Act when construed with section 2(g) of the Open Meetings Act. The balance of the report, which reflects factual information not otherwise excepted, is public information and should be disclosed.

Very truly yours,



JOHN L. HILL  
Attorney General of Texas

APPROVED:



DAVID M. KENDALL, First Assistant



C. ROBERT HEATH, Chairman  
Opinion Committee