



THE ATTORNEY GENERAL
OF TEXAS

AUSTIN, TEXAS 78711

December 16, 1976

JOHN L. HULL,
ATTORNEY GENERAL

The Honorable Lorene Rogers
President
The University of Texas
Austin, Texas

Attention: W. O. Shultz, II

Open Records Decision No. 148

Re: Time when faculty
member may have access
to recommendations con-
cerning promotion.

Dear Dr. Rogers:

A faculty member has requested a copy of his personnel file. The information requested includes recommendations and evaluations relating to renewal of appointment, award of tenure and promotion. The information is referred upward through several levels of the University administration until it reaches the President, who makes a final decision. Additional evaluations are added at each stage of the process and the total review takes more than two months.

The University contends that the information is in "active use" within the meaning of section 4 of the Open Records Act, article 6252-17a, V.T.C.S., during the entire time this faculty member's promotion is under consideration, and that it should not be made available until the President has made a decision.

We cannot agree with in this contention. In Open Records Decision No. 121 (1976) we said:

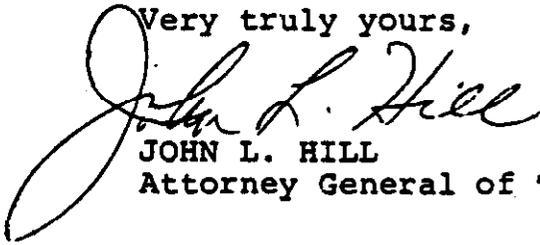
We have previously said that the portion of a file which is not then in immediate active use should be disclosed unless it is impossible to separate it from that which is in use. Open Records Decision No. 57 (1974). Section 4 requires information to be promptly produced at the time a person requests it, or within a reasonable time of the request if the information is in active use or storage.

This narrow exception to the rule of prompt production simply permits an agency to avoid unreasonable disruption of its immediate business, by scheduling a more convenient, but reasonable, time at which the requestor must be given the information sought. It is our opinion that the production of this information would not unreasonably disrupt the immediate business of the University.

You also contend that the information requested is an intra-agency memorandum and is excepted by section 3(a)(11) from disclosure to the faculty member until after the President's decision is made. We have previously decided that an employee's right to access under section 3(a)(2) is not limited by section 3(a)(11), which excepts information from public disclosure. Open Records Decision Nos. 90 (1975), and 55 (1974). It is our decision that information such as this evaluation is available to the employee prior to, as well as after, the decision concerning promotion.

The faculty member has a right to obtain this information under section 3(a)(2), and a copy should be promptly made available to him.

Very truly yours,



JOHN L. HILL
Attorney General of Texas

APPROVED:



DAVID M. KENDALL, First Assistant



C. ROBERT HEATH, Chairman
Opinion Committee

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