The Attorney General of Texas

November 5, 1981

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Open Records Decision No. 284

Re: Whether personnel file of high school principal and audit report of financial irregularities are available to the public under the Open Records Act

Dear Mr. Akin:

As attorney for the Richardson Independent School District, you have requested our decision under the Open Records Act, article 6252-17a, V.T.C.S., as to the availability of the personnel file of a high school principal employed by the Richardson Independent School District. The personnel file contains, inter alia, copies of the principal's birth certificate, teacher certificates, college transcripts, teacher service records, applications for employment, letters of notification, school district employment contracts, letters of reference, evaluations by supervisors, and recommendations for re-employment. You contend that this information is excepted from disclosure by section 3(a)(2), as:

> information in personnel files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Section 3(a)(2) requires a showing that disclosure of particular information would constitute a "clearly unwarranted invasion of personal privacy." This exception prevents the disclosure of intimate details of a highly personal nature. See Open Records Decision Nos. 224 (1979); 168 (1977). We have thoroughly examined the personnel file at issue here, and, in our view, no part of it comports with this standard, and accordingly, it is not excepted by section 3(a)(2). Open Records Decision Nos. 269 (1981); 260 (1980). See Open Records Decision No. 169 (1977); Attorney General Opinion MW-283 (1980).

The six letters of reference, however, were written in April 1963 and were furnished pursuant to a promise of confidentiality. This office has held that evaluations obtained in exchange for agreements of confidentiality made prior to June 14, 1973, the effective date of the Open Records Act, may be honored in order to

avoid the constitutional prohibition against impairment of the obligation of contracts. Open Records Decision Nos. 64, 55A (1975). Accordingly, those letters may be withheld from disclosure.

In addition, most portions of this employee's evaluations by supervisors and his recommendations for re-employment may be withheld pursuant to section 3(a)(11), 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.

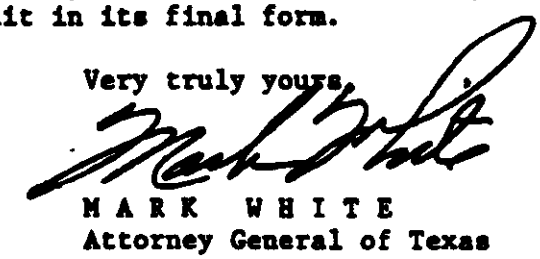
Open Records Decision Nos. 273 (1981); 239 (1980). We have marked those parts of the file which may be withheld.

You also inquire about the availability of an internal audit report. At the time of your request, the audit was not in final form, but your letter stated:

> ...it is anticipated that such audit will be completed and a final report made on or about June 15, 1981. For this reason it is our opinion and the opinion of the Superintendent that the R.I.S.D. could not now furnish a copy of the audit report as requested until such audit is completed and an audit report is finalized. At that juncture, it is our opinion and that of the Superintendent that the Superintendent should then examine the audit report in its final form, and if the Superintendent, the custodian of the R.I.S.D. records, deems any part or parts of such final audit to be exempt from public information, that further inquiries would be made of your office with respect to any such information.

Since we have received no "further inquiries," we assume that you are willing to disclose the entire audit in its final form.

Very truly yours,



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