



**THE ATTORNEY GENERAL  
OF TEXAS**

**JIM MATTOX  
ATTORNEY GENERAL**

July 14, 1989

Mr. Murray Watson, Jr.  
TSTI System  
Texas State Technical Institute  
Office of the General Counsel  
P. O. Box 1308  
Waco, Texas 76703

Dear Mr. Watson:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 6668; this decision is OR89-206.

Under the Open Records Act, all information held by governmental bodies is open unless the information falls within one of the act's specific exceptions to disclosure. The act places on the custodian of records the burden of proving that records are excepted from public disclosure. If a governmental body fails to claim an exception, the exception is ordinarily waived unless the information is deemed confidential under the act. See Attorney General Opinion JM-672 (1987). The act does not require this office to raise and consider exceptions that you have not raised.

The Texas State Technical Institute (TSTI) received a request for certain personnel/personal information about Dr. Cecil Groves, Chief Executive Officer and Chancellor of the Texas State Technical Institute. You indicate that the institute does not have some of the requested information in its possession. You seek confirmation of your claim that the institute need not provide information about 1) Dr. Groves' salary and financial means that are not derived from the state of Texas, 2) Dr. Groves' personal bank accounts with Texas National Bank of Waco, and 3) whether the bank made any loans or gifts or promises of such to Dr. Groves for his service on the bank's advisory board or for his service as chancellor of the TSTI system. We assume that the other information requested that is in existence has been provided.

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It is well established that the Open Records Act does not require that a governmental body obtain information that is not in its possession. Open Records Decision No. 445 (1986). On the other hand, if an officer or employee of a governmental body receives information at home that relates to the officer's or employee's official duties, the information is subject to the act. Open Records Decision No. 332 (1982). If any entity, such as a bank, has provided Dr. Groves with any salary, gifts, or loans for his service as Chancellor of the system, the information must be released. With this caveat, we confirm your general assertion that information not in TSTI's possession is not subject to the Open Records Act. Please submit an affidavit with regard to the existence of any information about outside remuneration for Dr. Groves' official position.

Finally, we note that the information Mr. Blankenship seeks may be available pursuant to article 6252-9b, V.T.C.S., the statute that governs the standards of conduct for state officers and employees. This act requires that certain officials file financial statements with the Secretary of State's office.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR89-206.

Yours very truly,

*Open Government Section*  
*of the Opinion Committee* 

Open Government Section  
of the Opinion Committee  
Prepared by Jennifer S. Riggs  
Chief, Open Government Section

JSR/bc

cc: Thomas J. Blankenship  
Rt. 8, Box 1314  
Waco, Texas 76705

Ref.: ID# 6668