



**THE ATTORNEY GENERAL
OF TEXAS**

**JIM MATTOX
ATTORNEY GENERAL**

October 24, 1989

Mr. M. B. Donaldson, Jr.
Superintendent of Schools
Aldine Independent School District
14910 Aldine-Westfield Road
Houston, Texas 77032'

Dear Mr. Donaldson:

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# 7856; this decision is OR89-338.

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 Aldine Independent School District received an open records request for student directories for the four high schools in the school district. You indicate that the school district has complied with the Family Educational Rights and Privacy Act of 1974 (FERPA), 20 U.S.C. § 1232g, by notifying parents of its intent to make directory information public and that certain parents have requested that the information not be released to the public. You ask whether section 14(e) of the Open Records Act authorizes the district to deny the request.

Your request falls within previous open records decisions. See, e.g., Open Records Decision Nos. 96 (1975); 72 (1975). In Open Records Decision No. 96, this office stated that section 14(e) requires that school districts take the steps set forth in the FERPA to allow parents to

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assert a privacy interest in directory information. Cf. also Vandiver v. Star-Telegram, Inc., 756 S.W.2d 103, 107 (Tex. App. - Austin 1988, no writ) (if students or parents do not respond or if no inquiry is made, the records may be presumed public). If certain parents have requested that their home addresses and telephone numbers not be released, the district must edit those entries from the requested directory, prior to release.

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 OR89-338.

Yours very truly,

Open Government Section
of the Opinion Committee

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

JSR/lcd

Enclosure: ORD-96

cc: Willie A. Richardson
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Ref.: ID# 7856