



THE ATTORNEY GENERAL
OF TEXAS

JIM MATTOK
ATTORNEY GENERAL

January 9, 1990

Ms. Betty DeWitt
Associate General Counsel
Texas Tech University
Health Sciences Center
Box 4641
Lubbock, Texas 79409-2021

Dear Ms. DeWitt:

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# 7699; this decision is OR90-008.

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. Attorney General Opinion H-436 (1974). 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.

We have considered the exception you claimed, section 3(a)(1), in regard to disclosure of the information requested from you. The names of public employees participating in an optional retirement plan and/or tax deferred annuity plan are not protected from disclosure under section 3(a)(1). Such information cannot be considered highly intimate or embarrassing facts about a person's private life held to be protected under common-law privacy principles recognized in Industrial Found. of the South v. Texas Indus. Accident Bd., 540 S.W.2d 668 (Tex. 1976), cert. denied, 430 U.S. 930 (1977). See Open Records Decision No. 455 (1987) (copy enclosed).

Because case law and prior published open records decisions resolve your request, we are resolving this matter

Ms. Betty DeWitt
January 9, 1990
Page 2

with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR90-008.

Yours very truly
*Open Government Section
of the Opinion Committee*



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of the Opinion Committee
Prepared by David A. Newton
Assistant Attorney General

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Ref.: ID# 7699

Enclosure: ORD-471
ORD-455
ORD-41

cc: Beverly Starkes
Registered Representative
Aetna Life Insurance and Annuity Company
1901 University Avenue, Suite 505-A
Lubbock, Texas 79410