



THE ATTORNEY GENERAL  
OF TEXAS

JIM MATTOX  
ATTORNEY GENERAL

March 6, 1990

Robbie Malone  
Office of the General Counsel  
Texas A & M University System  
300 System Administration Bldg.  
College Station, Texas 77843-1116

OR90-087

Dear Ms. Malone:

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# 7852.

Texas A&M University received several open records requests from one of its faculty members for information relating to the university's merit criteria, the "ranking" of department faculty, and the faculty member's failure to be assigned summer school classes. The university received three of these requests in March 1989. You requested a decision from this office on October 12, 1989. Consequently, with regard to the information sought in the March 1989 requests, you failed to request a decision within the 10 days required by section 7(a) of the Act.

Section 7(a) of the act requires a governmental body to release requested information or to request a decision from the attorney general within 10 days of receiving a request for information the governmental body wishes to withhold. When a governmental body fails to request a decision within 10 days of receiving a request for information, the information at issue is presumed public. City of Houston v. Houston Chronicle Publishing Co., 673 S.W.2d 316, 323 (Tex. App. - Houston [1st Dist.] 1984, no writ); Open Records Decision No. 319 (1982). The governmental body must show a compelling interest to withhold the information to overcome this presumption. Id. You have not shown compelling reasons why the information at issue should not be released. The records sought in the March 1989 open records requests are presumed public information and must be released.

Regarding the additional information sought by the requestor in his open records request of October 2, 1989, we have considered the exceptions you claimed, specifically section 3(a)(3) and 3(a)(11), and have reviewed the documents at issue. Based on your representation that the faculty member has a pending discrimination complaint filed with the EEOC, a previous determination of this office, Open Records Decision No. 386 (1983), a copy of which is enclosed, resolves your request. For this reason, you may withhold the requested information pursuant to section 3(a)(3), except as discussed above.

Finally, with regard to the requestor's October 4, 1989, open records request, please note that although the act does not require a governmental body to prepare information in the form requested by a member of the public, Open Records Decision No. 145 (1976), or to prepare new information, Attorney General Opinion JM-672 (1987), some compilation of information may be required under the act. Id. Consequently, documents that contain the requested information are subject to the request. If the university intends to withhold these documents, they must be submitted to this office within ten days of receipt of this letter with an explanation as to why they come under the protection of section 3(a)(3).

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 OR90-087.

Yours very truly,



Susan Garrison  
Assistant Attorney General  
Opinion Committee

SG/RWP/le  
Ref.: ID# 7852

Enclosure: Open Records Decision No. 386

cc: Gaines West  
West, Adams, Webb & Allbritton  
3000 Briarcrest Drive, Suite 502  
Bryan, Texas 77802

Walter Wandler  
Associate Dean for Academic Affairs  
College of Architecture  
Texas A & M University  
College Station, Texas 77843