



**THE ATTORNEY GENERAL
OF TEXAS**

**JIM MATTOX
ATTORNEY GENERAL**

March 26, 1990

Mr. John W. Petry
Attorney for Carrizo Springs
Consolidated I.S.D.
P.O. Drawer 218
Carrizo Springs, Texas 78834

OR90-116

Dear Mr. Petry:

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# 8727.

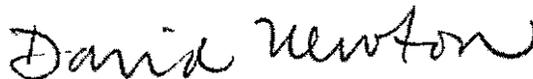
Under the Open Records Act, all information held by governmental bodies is open unless the information falls within one of the act's specific exceptions to disclosure. When a governmental body requests an attorney general's decision, the governmental body bears the burden of stating which exceptions apply to the information and why. Attorney General Opinion JM-672 (1987); Open Records Decision No. 252 (1980). The act places on the custodian of records the burden of proving what 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. Attorney General Opinion JM-672. The act does not require this office to raise and consider exceptions that you have not raised.

We have reviewed the written requests for information you submitted, along with copies of some of the documents at issue, which include a memorandum dated December 19, 1989, from the superintendent of schools to members of the board of the Carrizo Springs Consolidated Independent School District concerning budget restraint actions. The requestor also seeks the absentee sheets for a named school employee, copies of which you did not submit to this office. The memorandum is not confidential by law and as you raise no other specific exceptions to disclosure of the information, it must be released immediately.

Information in a school employee's personnel file may be protected from required public disclosure, but only if its release would constitute an invasion of the person's common-law right of privacy. That is, the information may be withheld only if it contains highly intimate or embarrassing facts about a person's private affairs such that release of it would be highly objectionable to a reasonable person of ordinary sensibilities and the information is of no legitimate concern to the public. See Industrial Found. of the South v. Texas Indus. Accident Bd., 540 S.W. 2d 668 (Tex. 1976) cert. denied, 430 U.S. 930 (1977). Open Records Decision No. 315 (1982). The work attendance record of a public employee cannot be considered highly intimate or embarrassing information about the employee's private affairs; moreover, there is a legitimate public interest in the work attendance of public employees. See, e.g., Open Records Decision No. 336 (1982) (dates of sick leave taken by public employees). Therefore, the absentee reports of a named school employee are not confidential and must be released.

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 OR90-116.

Yours very truly,



David A. Newton
Assistant Attorney General
Opinion Committee

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Ref.: ID# 8727, 8775, 8772

Enclosure: Open Records Decision Nos. 315; 336

cc: Laura Taylor
P.O. Box 394
Carrizo Springs, Texas 78834