



THE ATTORNEY GENERAL
OF TEXAS

JIM MATTOX
ATTORNEY GENERAL

May 8, 1990

Mr. John Wright
Attorney at Law
Wright & Associates
P.O. Box 531777
Grand Prairie, Texas 75053-1777

OR90-177

Dear Mr. Wright:

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# 9292.

On behalf of Mr. Buddy Berry, Chairman of the Executive Committee of University Interscholastic League (U.I.L.) Competition District 11-5-A, you have forwarded to us a request under the Texas Open Records Act. You state that an employee of the Dallas Independent School District has asked Mr. Berry to provide the following information:

1. All students declared ineligible for any and all U.I.L. Competitions since 1985.
2. All school districts investigated for allegations of playing ineligible players.

You are uncertain whether a U.I.L. Executive Committee for District Competition is subject to the Open Records Act. The Act applies to governmental bodies as defined in section 2 of article 6252-17a, V.T.C.S. A governmental body includes any commission or committee that is within the executive branch of government or created by the executive branch of the state government, and that is under the direction of one or more elected or appointed members. V.T.C.S. art. 6252-17a, § 2(1)(a). It also includes the board of trustees of every school district. Id. § 2(1)(D).

The University Interscholastic League is the state-wide organization for public elementary and secondary interschool competition in Texas. University Interscholastic League, Constitution, § 1 (1989-90). Section 21.921 of the Education Code states that the "University Interscholastic League is a part of The University of Texas at Austin and

must submit its rules and procedures to the State Board of Education for approval, disapproval, or modification." But see University Interscholastic League v. Maroney, 681 S.W.2d 285 (Tex. App.-- Austin 1984, writ ref'd) (U.I.L. not part of the university under prior version of section 21.921). Its funds are deposited with the University of Texas at Austin and subject to audits by the university and the state auditor. Educ. Code, § 21.921(b).

A public school district in Texas that is subject to accreditation by the Texas Education Agency may become a member of the League. U.I.L., Constitution, § 10. The superintendent of a school district belonging to the U.I.L. has a number of administrative responsibilities under U.I.L. rules. Id. § 21. The district executive committee is composed of the superintendents of participant schools competing in the district. Id. § 25. The district committee, among other things, is responsible for enforcing U.I.L. rules and investigating the eligibility of contestants. Id.

The U.I.L. Executive Committee for District Competition is a governmental body subject to the Open Records Act. It is a committee created by the executive branch of government and is under the direction of appointive members. In addition, it appears to act on behalf of the member of school districts in administering interschool athletes programs and informing U.I.L. rules.

Because the request was made by an assistant superintendent of the Dallas Independent School District, you ask whether the Open Records Act requires you to provide information to an independent school district, or is it limited to supplying information requested by individuals.

The Open Records Act states that on application for public information "by any person" the officer for public records shall produce such information. V.T.C.S. art. 6252-17a, § 4 (emphasis added). The officer for public records is required to "treat each request for information uniformly without regard to the position or occupation of the person making the request or the person on whose behalf the request is made . . ." Id. § 5(c). You may not refuse to make records available solely because the person requesting them works for a political subdivision. Moreover, officers and employees of governmental bodies may on occasion have a greater authority or opportunity to inspect public records than the Open Records Act provides. See Attorney General Opinion JM-119 (1983); see also Attorney General Opinion H-683 (1975). It appears from the

minutes of the committee that the Dallas district is a member of District 11-5-A.

You state that the request seems to ask for state-wide information, but the 11-5-A Executive Committee has no state-wide information. In addition, it asks for school districts investigated for allegations of playing ineligible players, when the executive committee does not investigate school districts, but acts on information of alleged violations of U.I.L. rules by students and schools.

You are not required to obtain or provide information that you do not have. Open Records Decision No. 87 (1975). If you cannot determine what records are wanted, you must attempt to identify the records that might fit the request and then advise the requestor of the documents available so that he may narrow his request to specifics. Id.

You do not raise any exception that might be applicable to information about school districts. Accordingly, any such information in the possession of the committee is available to the public under the Open Records Act. See Open Records Decision No. 325 (1982).

You state that if information concerns an individual student it may only be released in accordance with the federal Family Educational Rights and Privacy Act. V.T.C.S. art 6252-17a, § 14(e). It would violate that statute to release such information to persons other than the parents of the students involved.

The Family Educational Rights and Privacy Act of 1974 (FERPA) provides that no federal funds will be made available under any applicable program to an educational agency or institution that has a policy of releasing education records or personally identifiable information contained in education records, other than directory information, of students without the parent's written consent. 20 U.S.C. § 1232g(b)(1). Information may be released to other school officials who have been determined by the educational agency to have legitimate educational interests. 20 U.S.C. § 1232g(b)(1)(A).

We are unable to determine whether the committee is an educational agency or institution within this provision, either in its own right or because of its relation to school districts, nor whether it receives federal funds. See generally Arkansas Gazette Co. v. Southern State College, 620 S.W.2d 258 (Ark. 1981), appeal dismissed and cert. denied 455 U.S. 931 (1982) (an intercollegiate athletic

conference is not an educational agency within FERPA). Nor can we determine whether the assistant superintendent for the Dallas School District is within the exception for school officials set out at 20 U.S.C. section 1232g(b)(1)(A).

The Family Policy and Regulations Office, United States Department of Education, provides technical assistance to ensure compliance with FERPA. 34 C.F.R. § 99.60(b)(2). You should address your question about the application of FERPA to the records in question to this office and provide information about the function of the Executive Committee, its relationship to school districts, its funding, and the requestor's legitimate educational interest in the records, if any. The name of the acting director, address and phone number are as follows:

Leroy Rooker
Acting Director
Family Policy & Regulations Office
Department of Education
400 Maryland Ave. S.W.
Washington D.C. 20202

(202) 732-2057

We advise you to inform the requestor of your contacts with the Family Policy and Regulations Office and of the answer you receive to his question, so that he may receive all the information he is entitled to. If you have questions about this ruling, please refer to OR90-177.

Yours very truly,



Susan Garrison
Assistant Attorney General
Opinion Committee

SG/le

Ref.: ID# 8064

Enclosure: ORD No. 87; AG Opinions H-683, JM-119