THE ATTORNEY GENERAL
OF TEXAS

JIM MATTOX
ATTORNEY GENERAL

June 27, 1990

Mr. Donald R. Boehm
Assistant Superintendent
Legal Services
Houston Independent School District
3830 Richmond Avenue
Houston, Texas 77027

OR90-272

Dear Mr. Boehm:

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# 5928.

The Houston Independent School District received a request for certain information pertaining to a student enrolled in the district and a teacher employed by the district. You assert that the information relating to the student is excepted by section 3(a)(14) of the Open Records Act, and that the information relating to the teacher and other school district personnel is excepted by sections 3(a)(1) and 3(a)(2).

You have submitted documents grouped into two categories. The first group consists of information that was subpoenaed by the Harris County District Attorney's office in connection with an investigation of an incident involving the two individuals and a principal of an elementary school in the district. The second grouping consists of information compiled subsequent to the issuance of the subpoena.

Section 3(a)(14) of the Open Records Act shields from public disclosure "student records at educational institutions funded wholly, or in part, by state revenue," with certain exceptions. One such exception is that student records are available "upon request of educational institution personnel." The requestor in this instance is the attorney representing the principal involved in the incident under investigation. The principal, through his attorney,

appears not to be requesting access to the information in his capacity as an employee of the school district, but in his private capacity as a subject of a grand jury investigation. The principal, therefore, is not entitled to receive the information under the exception to section 3(a)(14) in these circumstances.

Section 14(e) of the Open Records Act brings the act into conformity with the federal Family Educational Rights and Privacy Act. 20 U.S.C. § 1232g. The federal act, in conjunction with the Open Records Act, prohibits the release of information identifying an individual student. See Open Records Decision Nos. 294 (1981); 205 (1978). Thus, any materials identifying students is excepted from disclosure, including any materials documenting the specific incident under investigation. Those items, which comprise most of the material submitted for our review, are marked accordingly.

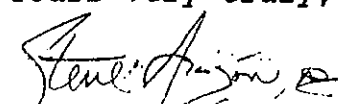
You claim sections 3(a)(1) and 3(a)(2) with respect to information identifying school district personnel. Section 3(a)(2) generally excepts personnel information if its release would cause an invasion of privacy under the test articulated for section 3(a)(1). Hubert v. Harte-Hanks Texas Newspapers, 652 S.W.2d 546, 550 (Tex. App. - Austin 1983, writ ref'd n.r.e.). It also protects transcripts of professional public school employees. Since no transcripts of professional employees are contained in the materials submitted for review, we assume your section 3(a)(2) claim is based on the privacy interests of school district personnel whose names appear in the documents.

Your letter provides no explanation of how the privacy interests of school district personnel are implicated by any of the documents submitted for review, and we fail to see any such interest warranting protection by sections 3(a)(1) or 3(a)(2). One document, describing a work-related injury sustained by a school district employee, does not disclose information that is protected by constitutional or common-law privacy; it must be disclosed to the requestor. 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. 262 (1980). Other documents that must be disclosed are marked accordingly.

Because case law and prior published open records decisions of this office resolve your request, we are responding to this matter with this informal letter ruling rather than with a published open records decision. We apologize for any inconvenience the considerable delay in

resolving this matter may have caused you or the requestor. If you have any questions about this ruling, please refer to OR90-272.

Yours very truly,



Steve Aragon
Assistant Attorney General
Opinion Committee

SA/le

Ref.: ID# 5928

Enclosure: Marked Document

cc: Harrison Gregg, Jr.
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