



THE ATTORNEY GENERAL
OF TEXAS

JIM MATTOX
ATTORNEY GENERAL

September 11, 1990

Mr. Pat Campbell
Vice President and General Counsel
Texas Tech University
Texas Tech University Health Sciences Center
Box 4641
Lubbock, Texas 79409-2021

OR90-434

Dear Mr. Campbell:

You ask whether Texas Tech University must make certain information available under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 10070.

You explain that a non-student employee of the Texas Tech University Library has asked to see statements made by student employees of the library in regard to the non-student employee's conduct. We conclude that the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g (commonly called the Buckley Amendment), requires you to withhold the statements.

The Buckley Amendment provides that no federal funds will be made available to an educational institution that has a policy or practice of permitting the release of education records of a student without the student's permission. 20 U.S.C. § 1232g(b)(1); see also id. § 1232g(d) (parental permission required for students under 18). "Education records" are records that "contain information directly related to a student" and "are maintained by an educational agency or institution or by a person acting for such agency or institution." Id. § 1232g(a)(4)(A). The statements in question here fit that definition. The term "education records" does not include

in the case of persons who are employed by an educational agency or institution but who are not in attendance at such agency or institution, records made and maintained in the normal course of business which relate exclusively to such person in that person's

capacity as an employee and are not available for use for any other purpose.

Id. § 1232g(a)(4)(B)(iii). That exception is not applicable here, however, because the statements were made by employees who are also students. Therefore, you may not release the statements.

You have also submitted several memoranda that discuss the students' statements. Many of them are also covered by the Buckley Amendment and must be withheld. Some of them, however, are not within the definition of "education records" and must be released. One of the documents you submitted may be withheld under section 3(a)(11). We have marked the documents accordingly.

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 OR90-434..

Yours very truly,


Sarah Woelk
Assistant Attorney General
Opinion Committee

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Ref.: ID# 10070

Enclosure: Marked Documents