



DAN MORALES  
ATTORNEY GENERAL

Office of the Attorney General  
State of Texas

September 6, 1991

Mr. George S. Hernandez  
Business Manager  
Sinton Independent School District  
322 South Archer Street  
Sinton, Texas 78387

OR91-405

Dear Mr. Hernandez:

You received a request under the Texas Open Records Act, article 6252-17a, V.T.C.S., for a school directory of all personnel, including telephone numbers. The directory includes unlisted and private telephone numbers. You ask whether the district may release the telephone numbers without the employees' permission. Your request was assigned ID# 12911.

You do not raise any provision of the Open Record Act that would except this information from required public disclosure. However, we can consider whether a privacy right of the school employee would prevent the public disclosure of his home telephone number. Open Records Decisions Nos. 455 (1987); 325 (1982).

The home telephone numbers and addresses of public employees are as a general rule not excepted from public disclosure by a common law or constitutional right of privacy within section 3(a)(1) of the Open Records Act. See Open Records Decisions Nos. 455 at 7; 169 (1977).

The Open Records Act establishes a procedure whereby public employees may decide whether or not their home telephone numbers will be available to the public under the Open Records Act. Section 3(a)(17)(A) of the Open Records Act provides that the following information may be excepted from public disclosure:

the home addresses or home telephone numbers of each official  
or employee or each former official or employee of a

governmental body *except as otherwise provided by Section 3A of this Act*, or of peace officers . . . .

V.T.C.S. art. 6252-17, § 3(a)(17)(A) (emphasis added). Section 3A of the Open Records Act provides as follows:

(a) Each employee or official of a governmental body and each former employee or official of a governmental body, shall choose whether or not to allow public access to the information in the custody of the governmental body relating to the person's home address and home telephone number. Each official and employee and each former official and employee shall state that person's choice to the main personnel officer of the governmental body in a signed writing not later than the 14th day after the date on which the employee begins the employment with the governmental body, the official is elected or appointed, or the former employee or official ends service with the governmental body. If the official's or employee's or the former official's or employee's choice is to not allow public access to the information, the information is protected as provided by Section 3 of this Act. *If an employee or official or a former employee or official fails to report within the period established by this section, the information is subject to public access.*

(b) If, during the course of the employment or the term of the office, or if, after leaving service with the governmental body the person wishes to close or open public access to the information, that individual may request in writing that the main personnel officer of the governmental body close or open access, as the case may be, to the information.

*Id.* § 3A (emphasis added).

If any employee of the school district has stated in a "signed writing" to the district's main personnel officer that he does not want the public to have access to his home telephone number, then you may not disclose it in response to a request under the Open Records Act. Open Records Decision No. 455 at 3. The home telephone numbers of employees who have not provided the signed writing as

required by section 3A are available to the requestor. Open Records Decision No. 530 (1989). Public employees whose telephone numbers must be disclosed to this requestor may exercise their option to deny public access to the phone numbers in the case of future Open Records requests. *Id.* The exercise of this option while a request for his telephone number is pending will not close it up in response to that request. *Id.* The home telephone numbers of school district employees are available to the requestor without the employee's consent, unless the employee has already expressed his wish pursuant to section 3A of the Open Records Act to withhold this information from public disclosure.

You failed to give us an address for the requestor. Please forward a copy of this letter to the requestor.

Because 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 OR91-405.

Yours very truly,



Susan Garrison  
Assistant Attorney General  
Opinion Committee

SG/mc

Ref.: ID# 12911

Enclosures: Open Records Decision Nos. 169, 325, 455, 530

cc: Barker, Ranc & Associates Financial Services