



DAN MORALES
ATTORNEY GENERAL

Office of the Attorney General
State of Texas

September 17, 1991

Mr. Robert A. Schulman
Attorney for Eagle Pass I.S.D.
Schulman, Walheim, Beck & Heidelberg, Inc.
420 South Main Avenue
San Antonio, Texas 78204

OR91-419

Dear Mr. Schulman:

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# 13358.

The Eagle Pass Independent School District (the district) received an open records request from a local news reporter for a copy of the video taped deposition of a former school district principal. The deposition was taken during the principal's appeal of the nonrenewal of his contract with the district. You state that the deposition

has not been accepted into evidence for the hearing on the merits of the appeal, nor will it be without objection from the District, objections to the deponent's answers having been expressly reserved at the time of the deposition.

You contend that the district may withhold the video taped deposition pursuant to section 3(a)(3) of the Open Records Act.

To secure the protection of section 3(a)(3), a governmental body must demonstrate that the requested information "relates" to pending or reasonably anticipated litigation. *See* Open Records Decision No. 551 (1990). Although such is clearly the case here, we note that the purpose of section 3(a)(3) is to require parties to the litigation to obtain information through the discovery process. *Id.* Once information has been obtained by all parties to the litigation, no section 3(a)(3) interest exists with respect to that information. Open Records Decision Nos. 349, 320 (1982). Assuming that all parties to the litigation were present at the time the

deposition was recorded and that each of the parties either possesses or may readily obtain copies of the video tape, there is now no justification for withholding the tape from the requestor pursuant to section 3(a)(3).

You have raised none of the act's other exceptions with regard to this material; the district must therefore release the requested information. 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 OR91-419.

Yours very truly,



Kay H. Guajardo
Assistant Attorney General
Opinion Committee

KHG/RWP/lb

Ref.: ID# 13358

cc: Ionacia Trujillo
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