



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 2, 1991

Mr. M. B. Donaldson, Jr.
Superintendent of Schools
Aldine Independent School District
14910 Aldine Westfield Road
Houston, Texas 77032-3099

OR91-456

Dear Mr. Donaldson:

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# 13603.

You have received a request for "information concerning those teachers who are now, have been, and will be responsible for the education" of a certain student. The request includes "all certificates of education and training, workshop certificates, degrees, special qualifications, to include any disciplinary action taken and awards given." The requestor lists the 41 Aldine Independent School District (the district) employees or former employees to whom his request applies. You claim that the district would have to conduct research and compile information not already in existence in order to comply with the request. You also claim that information related to disciplinary action is excepted from required public disclosure under section 3(a)(1). Finally, you claim that the requested information may be withheld under section 3(a)(3).

We have considered the exceptions you claim and have reviewed the documents submitted to us. Previous open records decisions issued by this office resolve your request. Open Records Decision No. 555 (1990) held that a section 3(a)(3) exception may be properly invoked only if litigation is pending or may be reasonably anticipated and if the requested information relates to that litigation. Section 3(a)(3) forces parties to a lawsuit to obtain relevant information through the normal process of discovery, if at all. Open Records Decision No. 551 (1990). You advise us that an administrative hearing is pending. Open Records Decision No. 368 (1983) held that "the litigation exception may be applied

to records relating to a contested case before an administrative agency." You have demonstrated that the requested information relates to the pending litigation. Accordingly, unless the information requested has already been disclosed through the discovery process or by court order, you may withhold the information under section 3(a)(3). Please note that this ruling applies only for the duration of the litigation at issue. Because we resolve your request under section 3(a)(3), we need not address the applicability of your other claims.

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 OR91-456.

Yours very truly,



Celeste A. Baker
Assistant Attorney General
Opinion Committee

CAB/GK/lcd

Enclosures: Open Records Decision No. 551, 368

Ref.: ID# 13603

cc: Rodney G. and Judy D. Lindsay
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