



Office of the Attorney General

State of Texas

September 23, 1992

DAN MORALES  
ATTORNEY GENERAL

Mr. Donald E. Lindsay  
Henslee, Ryan & Groce  
Great Hills Plaza  
9600 Great Hills Trail  
Suite 300 West  
Austin, Texas 78759-6303

OR92-567

Dear Mr. Lindsay:

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# 16982.

The Elkhart Independent School District (the district) received an open records request from one of the district's teachers for a copy of "[a]ny documentation showing the names and appraisal scores for the 1990-91 school year of teachers who were placed or maintained on level II or III for the 1991-92 school year." You state that the district has released to the requestor a list of all appraisal scores with the names of individual teachers blacked out, with the exception of the name of the requesting teacher. You contend that the release of the names of teachers in conjunction with their respective appraisal scores would violate those teachers' privacy rights and that the district therefore must withhold this information pursuant to section 3(a)(2) of the Open Records Act.

A prior determination of this office, Attorney General Opinion JM-36 (1983) (copy enclosed), resolves your request. Section 3(a)(2) is designed to protect public employees' personal privacy. The scope of section 3(a)(2) protection, however, is very narrow. See Open Records Decision No. 336 (1982). The test for section 3(a)(2) protection is the same as that for information protected by common-law privacy under section 3(a)(1): to be protected from required disclosure the information must contain highly intimate or embarrassing facts about a person's *private* affairs such that its release would be highly objectionable to a reasonable person *and* the information must be of no legitimate concern to the public. *Hubert v.*

*Harte-Hanks Texas Newspapers, Inc.*, 652 S.W.2d 546, 550 (Tex. App.-Austin 1983, writ ref'd n.r.e.). The information at issue pertains solely to the professional qualifications of public servants, and as such cannot be deemed to be outside the realm of public interest. Section 3(a)(2) was not intended to protect the type of information at issue here.

You have raised none of the act's other exceptions to required public disclosure. The district therefore must release the career ladder list in its entirety. 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 OR92-567.

Yours very truly,



Kimberly K. Oltrogge  
Assistant Attorney General  
Opinion Committee

KKO/RWP/lmm

Ref.: ID# 16982

Enclosures: Attorney General Opinion JM-36

cc: Mr. Lonnie F. Hollingsworth, Jr.  
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(w/o enclosures)