



Office of the Attorney General  
State of Texas

October 14, 1992

DAN MORALES  
ATTORNEY GENERAL

Mr. Douglas A. Poneck  
Escamilla, Poneck & Perez  
310 South St. Mary's, Suite 2201  
San Antonio, Texas 78205

OR92-602

Dear Mr. Poneck:

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# 17286.

The Edgewood Independent School District (the "school district"), which you represent, has received a request for information relating to the qualifications of some of its employees. Specifically, the requestor seeks:

1. Copies of the state social work certificates for Ms. Anna Monreal, Ms. Diettra Simmons, Ms. Leticia Coronado and Ms. Elisa Ornelas.
2. Copies of the TTAS scores for Mr. Art de la Garza and Ms. Cruz for the past two years . . . .
3. Copies of the teaching certificate and/or permit for Mr. Rodney Rodriguez who is a teacher at Memorial High School.
4. Copies of Mr. Rodney Rodriguez' transcripts with the grades marked out.

You claim that the state social work certificates and the teaching certificate and/or permit are excepted from required public disclosure by sections 3(a)(1) and 3(a)(2) of the Open Records Act.

Section 3(a)(1) excepts "information deemed confidential by law, either Constitutional, statutory, or by judicial decision." You have not cited statutes which

make state social work certificates or teaching certificates or permits confidential, nor are we aware of any. However, section 3(a)(1) also excepts information from required public disclosure if its release would cause an invasion of privacy under the test articulated by the Texas Supreme Court in *Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Information may be withheld on common-law privacy grounds only if it is highly intimate or embarrassing and is of no legitimate concern to the public. The test for constitutional privacy involves a balancing of the individual's privacy interests against the public's need to know information of public concern. *Industrial Foundation*, 540 S.W.2d at 685. "The constitutional right of privacy protects information relating to marriage, procreation, contraception, family relationships, and child rearing and education." Open Records Decision No. 447 (1986) at 4.

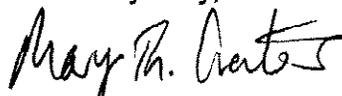
Section 3(a)(2) protects personnel file information only if its release would cause an invasion of privacy under the test articulated for section 3(a)(1) of the act by the Texas Supreme Court in *Industrial Foundation. Hubert v. Harte-Hanks Texas Newspapers, Inc.*, 652 S.W.2d 546 (Tex. App.--Austin 1983, writ ref'd n.r.e.); *see also* Open Records Decision No. 441 (1986). It also expressly protects "transcripts from institutions of higher education maintained in the personnel files of professional public school employees." V.T.C.S. art. 6252-17a, § 3(a)(2). Governmental bodies that hold such transcripts from institutions of higher education in the personnel files of professional public school employees must edit from the transcripts all information other than the employee's name, the courses taken, and the degree(s) obtained. Open Records Decision No. 526 (1989). The remainder of the transcript is protected from required public disclosure under section 3(a)(2).

Accordingly, the transcripts, with the exception of the employees' names, courses taken, and degree obtained, are protected. The remainder of the requested information, however, is not highly intimate or embarrassing and is of legitimate public concern. Nor does it involve the highly intimate interests protected by the doctrine of constitutional privacy. Information previously held by this office not to be protected by common-law and constitutional privacy interests includes, for example, applicants' and employees' educational training, names and addresses of former employers, dates of employment, kind of work, salary, and reasons for leaving, names, occupations, addresses and phone numbers of character references, job performance or ability, birth dates, height, weight, marital status, and social security numbers. *See* Open Records Decision No. 455 (1987); *see also* Open Records Decision Nos. 470, 467 (1987); 444 (1986); 421 (1984); 405 (1983). We conclude that the remainder of the requested information is not the type ordinarily

excepted from required public disclosure by common law or constitutional privacy. Accordingly, it may not be withheld under section 3(a)(1) of the Open Records Act and must be released.

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 OR92-602.

Yours very truly,



Mary R. Crouter  
Assistant Attorney General  
Opinion Committee

MRC/GCK/lmm

Ref: ID# 17286  
ID# 17417  
ID# 17425

cc: Ms. Marlene Hawkins  
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