



Office of the Attorney General
State of Texas

October 30, 1992

DAN MORALES
ATTORNEY GENERAL

Mr. Kevin T. O'Hanlon
Chief Counsel
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701-1494

OR92-633

Dear Mr. O'Hanlon:

The Texas Education Agency has been asked pursuant to the Texas Open Records Act, article 6252-17a, V.T.C.S., for a copy of a private investigator's report pertaining to activities of personnel in a particular division of your agency. You have requested an open records ruling on this matter, stating that the agency has in its personnel files a document meeting this description. Your request was assigned ID# 17607.

You claim that this information is excepted from public disclosure pursuant to section 3(a)(1) of the Open Records Act, which applies to "information deemed confidential by law, either Constitutional, statutory, or by judicial decision." This exception applies to information held confidential under case law, including information protected by a common law or constitutional right of privacy. See *Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), cert. denied, 430 U.S. 931 (1977). See also *Texas State Employees Union v. Texas Dep't of Mental Health & Mental Retardation*, 746 S.W.2d 203 (Tex. 1987); Open Records Decision No. 600 (1992) at 3-6 (copy enclosed).

We have considered the exception you claimed, specifically section 3(a)(1), and have reviewed the documents at issue. On the basis of the decisions we have cited, we conclude that it is protected from public disclosure by a common law and constitutional right of privacy. For this reason, you must withhold 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 OR92-633.

Yours very truly,



Susan Garrison
Assistant Attorney General
Opinion Committee

SLG/lmm

Ref.: ID# 17607

Enclosure: Open Records Decision No. 600

cc: Mr. Vernon J. Stewart
Executive Director
Texas Association of Private Schools
P. O. Box 13481
Austin, Texas 78711