



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 9, 1993

Mr. Hector Uribe
Roth, Uribe & Associates
P.O. Box 5267
Brownsville, Texas 78520

OR93-445

Dear Mr. Uribe:

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# 20799.

The Brownsville Independent School District (the "school district") received a request for certain information concerning a teacher that was suspended by the school board. Specifically, the request is for "the name of the teacher suspended at the April 28 school board meeting . . . [and] the reason for the teacher's suspension."

You seek to withhold the requested information under section 3(a)(2). Section 3(a)(2) exempts from disclosure

information in personnel files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, and transcripts of professional public school employees; provided, however, that nothing in this section shall be construed to exempt from disclosure the degree obtained and the curriculum on such transcripts of professional public school employees, and further provided that all information in personnel files of an individual employee within a governmental body is to be made available to that individual employee or his designated representative as is public information under this Act.

Section 3(a)(2) exempts information in personnel files only if it meets the test under section 3(a)(1) for invasion of privacy. *Hubert v. Harte-Hanks Texas Newspapers*, 652 S.W.2d 546 (Tex. App.--Austin 1983, writ ref'd n.r.e.). Information may be withheld if

(1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public.

Industrial Found. of the S. v. Texas Indus. Accident Bd, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Although information regarding the suspension of a school teacher may be intimate or embarrassing, because it relates to the teacher's job performance, it is of legitimate public concern. Open Records Decision Nos. 470 at 5; 444; 441 (1986) at 3. We therefore conclude that the name of the teacher and the reasons for his or her suspension must be disclosed.¹

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 contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Opinion Committee

LRD/JET/jmn

Ref.: ID# 20799

cc: Mr. Shawn Foster
Reporter
The Brownsville Herald
P.O. Box 351
Brownsville, Texas 78520

¹The Family Educational Rights and Privacy Act (FERPA), 20 U.S.C.A. Section 1232g, may be implicated here because FERPA provides for confidentiality of educational records containing personally identifiable information about students, and for release of such records only in accordance with its provisions. See V.T.C.S. art. 6252-17a, §§ 3(a)(14), 14(e). You did not provide our office with the name of the teacher or the reasons for his or her suspension. If the information regarding the reasons for the teacher's suspension contains personally identifiable information regarding any students, you must release such records pursuant to the provisions in FERPA. See 20 U.S.C. § 1232g(b)(1).