



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 30, 1994

Ms. Lisa A. Brown
Bracewell & Patterson
South Tower Pennzoil Place
711 Louisiana Street, Suite 2900
Houston, Texas 77002-2781

OR94-616

Dear Ms. Brown:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552. We assigned your request ID# 27037.

The Deer Park Independent School District (the "school district"), which you represent, has received a request for student disciplinary information and medical information about students and school district employees. Specifically, the requestor seeks the following categories of information:

- 1) information reflecting the number of pregnant students enrolled in Deer Park I.S.D. during the 1993-94 school year;
- 2) information reflecting the number and type of assaults by students enrolled in Deer Park I.S.D. during the 1993-94 school year;
- 3) information reflecting the number and type of weapons confiscated by Deer Park I.S.D. from students during the 1993-94 school year;
- 4) information reflecting the number of Deer Park I.S.D. students disciplined for drug-related incidents as well as the name of the drugs during the 1993-94 school year;

- 5) information reflecting the number of students enrolled in Deer Park I.S.D. during the 1993-94 school year who have H.I.V. or AIDS;
- 6) information reflecting the number of Deer Park I.S.D. employees who have had or who currently have H.I.V. or AIDS during the 1993-94 school year;
- 7) information reflecting a breakdown by age and/or grade level for items 1 through 5 above;
- 8) information reflecting a breakdown by campus for items 1 through 4 above; and
- 9) enrollment figures for the 1993-94 school year for Deer Park I.S.D.

You seek a determination with respect to categories 1 through 8, above.¹ You claim that preparation of information responsive to these categories would require the school district to create a document that does not now exist.

You advise us that the school district is not in possession of information responsive to category 1. In addition, you advise us that the only way the school district can furnish information responsive to categories 2 through 8 is "to research each of 10,981 student files and then prepare a new document compiling the information gathered," *i.e.*, that the school district "would have to assemble and compile confidential data from different sources and then create a record that the District does not use itself."² Generally, the Open Records Act applies only to information in existence and does not require a governmental body to prepare new information or to prepare information in a form demanded by the requestor. *See* Open Records Decision Nos. 572 (1990) at 1; 458 (1987) at 2. Numerous opinions of this office have addressed situations in which a governmental body has received either an "overbroad" written request for information or a written request for information that the governmental body is unable to identify. Open Records Decision No. 561 (1990) at 8-9 states:

We have stated that a governmental body must make a good faith effort to relate a request to information held by it. Open Records Decision No. 87 (1975). It is nevertheless proper for a

¹We assume that the school district has made available information responsive to category 9.

²There is some dispute as to what records the school district actually has. We must rely on the factual representations of the school district, however, because this office cannot resolve questions of fact. *See, e.g.*, Attorney General Opinions DM-98 (1992) at 3; H-56 (1973); M-187 (1968); Open Records Decision No. 426 (1985).

governmental body to require a requestor to identify the records sought. Open Records Decision Nos. 304 (1982); 23 (1974). For example, where governmental bodies have been presented with broad requests for information rather than specific records we have stated that the governmental body may advise the requestor of the types of information available so that he may properly narrow his request. Open Records Decision No. 31 (1974).

In response to the request at issue here, the school district must make a good-faith effort to relate the request to information in the school district's possession and must help the requestor to clarify her request by advising her of the types of information available. The school district seems willing to do this, provided that the requestor is not given access to information made confidential by law and costs incurred in preparing the responsive records for access are paid. *See Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 687-88 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977) (discussing permissible charges and bond option available under Open Records Act). Beyond these requirements, however, the school district need not generate new information to comply with the request.

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 this office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Government Section

LRD/GCK/rho

Ref.: ID# 27037

cc: Ms. Sandra W. Hoffpauir
2430 Tyler Lane
Deer Park, Texas 77536
(w/o enclosures)