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Opinion Committee

**STATE PENSION REVIEW BOARD**

P.O. BOX 13498 • AUSTIN, TEXAS 78711-3498  
PHONE (512) 463-1736 FAX (512) 463-1882

**RQ-529**

February 26, 1993

**FILE #** ~~191502~~

**I.D.#** 19150

Ms. Madeleine B. Johnson  
Chair, Opinion Committee  
Office of the Attorney General  
P.O. Box 12548  
Austin, Texas 78711

INTERAGENCY MAIL

RE: RQ-407

Dear Ms. Johnson:

By letter of February 19, 1993, your office closed its file on RQ-407 which dealt with the impact of the Americans with Disabilities Act on meetings of public pension plans under certain circumstances. Bill Walker of your staff was kind enough to discuss this matter at some length with Everard Davenport, an Assistant City Attorney in Dallas. Mr. Davenport provides legal advice to the trustees of Dallas' municipal pension plans. As Mr. Davenport understood it, you agreed to re-open the file in RQ-407 if the issues were narrowed.

For the sake of your opinion please assume, since it is true with most plans, that:

1. No local ordinance addresses the question of whether the meeting of the trustees of a public retirement system is open to the public. That issue is determined entirely by state and federal law.
2. The trustees have no committee or subcommittee which deals with medical determinations. The trustees are required by the plan document to serve as the sole finders of fact and law on initial applications and re-considerations of eligibility for disability retirement benefits.

Base upon the above,

- a) Is the board of trustees of a public retirement system serving as a

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medical board or medical committee as described in section 2 (o) of the Open Meetings Act when reviewing or discussing medical records as part of its determination of the eligibility of a person to receive disability retirement benefits?

- b) If your answer to the above is negative, does 29 CFR 1630.14 (c) (1), as quoted in my opinion request of July 23, 1992, overrule any provisions of Article 6252-17 V.A.T.S. which would otherwise require the trustees to review and discuss medical records of employees and retirees in open session?

I appreciate your willingness to re-open this matter. If you have any questions or need further information, please call me at 463-1736 or Mr. Davenport at 214/670-5477.

Sincerely,



Rita Horwitz  
Executive Director

RH/lb