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The Senate of
 The State of Texas

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Opinion

The Honorable Dan Morales
 Attorney General for the
 State of Texas

Re: Request for an Attorney General's Opinion interpreting the Open Meetings
 Act, Art. 6252-17 and Texas Education Code, section 13.112

RQ-563

Dear Mr. Morales:

This letter is a request for an interpretation concerning the Texas Open Meetings Act, Article 6252-17 Tex. Rev. Civ. Stat. Ann. and Texas Education Code (TEC), section 13.112. Pursuant to section 13.112, TEC, a teacher may request a public hearing before the Board of Trustees on proposed termination of his contract. In cases involving sexual harassment of students by a teacher, students will be key witnesses and, therefore, will be needed to testify in the termination proceedings. If the Open Meetings Act and Texas Education Code provisions are read to allow a totally public hearing, a minor student will be subject to public scrutiny, embarrassment and ridicule in a manner which would not be normally permitted in a court of law. The very notion that a child may be protected in criminal proceedings in which testimony may be given in camera to protect the best interests of the child is the same rationale which must be relied upon in efforts to protect students when testifying against an employee of the district. The school district is charged with protecting the best interests of students while at the same time pursuing proper disciplinary action against employees when necessary. To require public testimony by student witnesses under these circumstances will have a serious chilling effect on students coming forward in such cases.

The school district is requesting an interpretation of these statutory provisions to determine whether there is a means by which the entire hearing can be conducted in executive session in order to protect the best interests of the student as well as the employee. Efforts toward encouraging individuals to come forward to report acts of sexual harassment or abuse will be seriously damaged if witnesses who are minors were minors at the time of the occurrence cannot be protected when the time for a hearing on the matter is conducted. It is, therefore,

requested that you provide an interpretation concerning whether the best interests of the student witnesses and victims can be protected by conducting testimony in executive session in cases involving teacher termination and when a particularly sensitive topic such as sexual harassment is at issue.

A prompt response will be greatly appreciated. Should you have any questions, please do not hesitate to call me directly.

Sincerely,

Senator O. H. "Ike" Harris

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