



**STATE OF ARKANSAS**  
**THE ATTORNEY GENERAL**  
**DUSTIN MCDANIEL**

Opinion No. 2014-059

June 9, 2014

Jon Swanson  
MEMS, Executive Director  
1101 West Eighth Street  
Little Rock, Arkansas 72201

Dear Mr. Swanson:

You have requested my opinion regarding the Arkansas Freedom of Information Act ("FOIA"). Your request, which is made as the custodian, is based on A.C.A. § 25-19-105(c)(3)(B)(i) (Supp. 2013). This subsection authorizes the custodian, requester, or the subject of personnel or employee evaluation records to seek an opinion from this office stating whether the custodian's decision regarding the release of such records is consistent with the FOIA.

Your correspondence indicates that someone has requested the name, job title, department, "base salary," and annual salary of all current full-time and part-time MEMS employees. You have determined that this information should be released under the FOIA. Thirty-three employees object to the release but do not give any reason for their objections.

**RESPONSE**

A document must be disclosed in response to a FOIA request if all three of the following elements are met. First, the FOIA request must be directed to an entity subject to the act. Second, the requested document must constitute a public record. Third, there are no exceptions that require the document to be withheld. The first two of elements are met.<sup>1</sup>

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<sup>1</sup> MEMS is an entity subject to the FOIA. *See* Op. Att'y Gen. 95-326. The records sought reflect the performance of MEMS official duties regarding staffing and employee compensation.

Therefore, the requested records must be released unless some exception requires otherwise. This office has repeatedly concluded that the kinds of records being requested here qualify as “personnel records,” which must be released unless doing so “constitutes a clearly unwarranted invasion of personal privacy.”<sup>2</sup> In addition, this office has repeatedly opined that the release of information being sought does not, as a general matter, rise to the level of a clearly unwarranted invasion of personal privacy.<sup>3</sup> None of the objectors offers any specific reason to overcome the general rule that this information must be released.

Accordingly, the custodian’s decision to release this information is, in my opinion, consistent with the FOIA.

Assistant Attorney General Ryan Owsley prepared the foregoing opinion, which I hereby approve.

Sincerely,



DUSTIN MCDANIEL  
Attorney General

DM/RO:cyh

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<sup>2</sup> See A.C.A. § 25-19-105(b)(12); *see generally* Op. Att’y Gen. 2011-156.

<sup>3</sup> *Id.*