



THE ATTORNEY GENERAL
OF TEXAS

JIM MATTOX
ATTORNEY GENERAL

March 29, 1990

Mr. Donald R. Boehm
Assistant Superintendent
Legal Services
Houston Independent School District
3830 Richmond Avenue
Houston, Texas 77027-5838

OR90-125

Dear Mr. Boehm:

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# 8456.

You advise that the principal of a middle school in the Houston Independent School District has received a request from the father of a student for the following information:

- 1) names of the individuals who were present at a certain altercation between his son and another student;
- 2) names of the individuals involved in the incident, but not necessarily in the fight;
- 3) details of the conversation of the other individuals involved, both in the cafeteria and in the vice principal's office;
- 4) details of previous incidents involving his son in which altercations or loud conversation occurred.

The information we received for review includes handwritten notes in which witnesses give an account of the altercation between the son and the other student. You contend these materials are the personal, handwritten notes of the individual who wrote them and not records of a governmental entity subject to the Open Records Act. You state that if they are deemed governmental records subject to the Open Records Act, the notes are excepted from disclosure by sections 3(a)(14) and 14(e) of the Open Records Act.

Section 3(a) of the Open Records Act provides that "information collected, assembled, or maintained by or for governmental bodies . . . pursuant to law or ordinance or in connection with the transaction of official business is public information." The notes you submitted for review appear to have been taken by persons who have authority governing the discipline of students and are, therefore, "public records" within the meaning of section 3(a) of the Open Records Act. See Open Records Decision No. 450 (1986).

Section 14(e) of the Open Records Act incorporates the Family Educational Rights and Privacy Act of 1974 [FERPA hereinafter]. The definition of "education records" in that act includes:

those records, files, documents, and other materials which --

(i) contain information directly related to a student; and

(ii) are maintained by an educational agency or institution or by a person acting for such agency or institution.

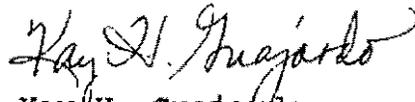
20 U.S.C. § 1232g(a)(4)(A). The materials you submitted contain information about an altercation that occurred at school and involved students of the school. The notes were taken by two individuals: one with authority from the school district to record the statements of the students and other individuals present during the altercation; and another whose statement indicates he had authority to restrain the students and assert control of the situation. We believe these handwritten notes are "education records" as defined in FERPA. See Open Records Decision No. 477 (1987).

FERPA states that no federal funds will be available to an educational agency or institution which releases any personally identifiable information in educational records other than directory information unless there is written consent from the student's parents. See 20 U.S.C. § 1232g(b)(1), (b)(2)(A). The materials you submitted contain personally identifiable information of third parties -- i.e., the names of other students present or involved in the altercation. An educational agency or institution may not release a student's name, or information in its records relating to an identifiable student, without the permission of the student's parents. See Open Records Decision No. 205

(1978). Accordingly, all names of third parties mentioned in the notes must be deleted.

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 refer to OR90-125.

Yours very truly,



Kay H. Guajardo
Assistant Attorney General
Opinion Committee

KHG/le

Ref.: ID# 8456

cc: Fred Munguia III
4643 Curly Oaks
Houston, Texas 77053