



THE ATTORNEY GENERAL  
OF TEXAS

JIM MATTOX  
ATTORNEY GENERAL

May 1, 1990

Mr. Marvin B. Sallop  
Executive Director  
Texas School for the Deaf  
P.O. Box 3538  
Austin, Texas 78764

OR90-162

Dear Mr. Sallop:

You ask whether the Texas School for the Deaf must make certain information available to the parent of a student. The information in question is a report prepared by a School for the Deaf social worker in response to allegations that a cottage parent made sexual advances to students. Your request was assigned ID# 8887.

You state that the school is concerned about complying with the Federal Educational and Privacy Rights Act of 1974, commonly known as the Buckley amendment. 20 U.S.C. § 1232g. See also V.T.C.S. art. 6252-17a, §§ 3(a)(14), 14(e). We infer from your statement that the School for the Deaf is in fact subject to that act.

Your first question is whether the investigative report is an "education record" for purposes of the Buckley Amendment. Under the Buckley Amendment the term "education records" means records, files, documents and other materials that "contain information directly related to a student" and "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). You suggest that the report in question may not be an "education record" because of the exception for certain law enforcement records, which provides that the term "education records" does not include

if the personnel of a law enforcement unit do not have access to education records under subsection (b)(1) of this section, the records and documents of such law enforcement unit which (I) are kept apart from records described in subparagraph (A), (II) are maintained solely for law enforcement purposes, and (III) are not made available to

persons other than law enforcement officials of the same jurisdiction.

20 U.S.C. § 1232g(a)(4)(B)(ii). The report in question was prepared by a social worker who, we have been informed, does not work for a law enforcement unit of the school. Therefore, the report is not excluded from the definition of "education records" by virtue of the exception for certain law enforcement records. You do not suggest any other reason why the report would not be an "education record."

The Buckley Amendment gives parents of students the right to inspect and review the education records of their children. 20 U.S.C. § 1232g(a)(1)(A). You ask whether the report in question may be withheld because the report mentions other students. See 20 U.S.C. § 1232g(b) (prohibiting release of education records except in specified circumstances). The Buckley Amendment addresses that issue directly:

If any material or document in the education record of a student includes information on more than one student, the parents of one of such students shall have the right to inspect and review only such part of such material or document as relates to such student or to be informed of the specific information contained in such part of such material.

20 U.S.C. § 1232g(a)(1)(A). See also 34 C.F.R. § 99.12 (limitations on right to inspect and review records). For guidance in complying with that requirement, you should contact:

Leroy Rooker, Acting Director  
Family Policy & Regulations Office  
Department of Education  
400 Maryland Ave. S.W.  
Washington D.C. 20202  
(202) 732-2057

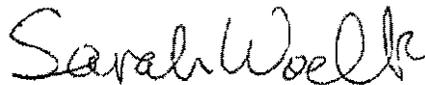
In summary, the School for the Deaf must disclose to the parents of a student those parts of an investigative report that relate to their child.

We also note that the Buckley Amendment requires an educational institution to establish a procedure for granting parents access to their children's education records "within a reasonable period of time, but in no case more than forty-five days after the request has been made."

20 U.S.C. § 1232g(a)(1)(A). Requesting advice from the Texas Attorney General does not toll the running of that 45-day period. Consequently, it would be advisable to address questions about the interpretation of the Buckley Amendment to the Family Policy & Regulations Office of the Department of Education.

If you have questions about this ruling, please refer to OR90-162.

Yours very truly,



Sarah Woelk  
Assistant Attorney General  
Opinion Committee

SW/le

Ref.: ID# 8877

cc: Ms. Jennifer S. Riggs  
Assistant Attorney General  
General Litigation Division  
P.O. Box 12548  
Austin, Texas 78711