



DAN MORALES
ATTORNEY GENERAL

Office of the Attorney General
State of Texas

August 30, 1991

Ms. Myra S. Chickering
Attorney for Fort Bend I.S.D.
Vinson & Elkins
3300 First City Tower
1001 Fannin
Houston, Texas 77002-6760

OR91-392

Dear Ms. Chickering:

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# 12209.

The Fort Bend Independent School District has received a request for copies of each complaint and evaluation report or any other memoranda in writing relating to action taken in response to allegations of employee misconduct. You claim that the requested information includes educational records which are protected from disclosure by section 3(a)(14) of the Open Records Act.

We have considered the exception you claimed and have reviewed the documents submitted to us. Previous open records decisions resolve your request. Section 3(a)(14) excepts from required public disclosure "student records at educational institutions funded wholly, or in part, by state revenue." Although the requested information is part of an employee's personnel file and *not* necessarily a part of student records, the information relates to students and disclosure of such might reveal the identity of the students. Section 14(e) incorporates the requirements of the Federal Family Educational and Privacy Rights Act 20 U.S.C. § 1232g into the Open Records Act and makes them prevail over other inconsistent provisions of the Open Records Act. Open Records Decision No. 431 (1985). Section 1232g defines "education records" as all records 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.

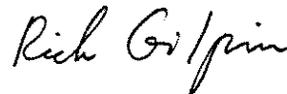
20 U.S.C. § 1232g (a)(4)(A). Section 1232g (a)(1)(A) states in part: "If any material or document in the education record of a student includes information on more than

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." The requested information contains information relating to students that would tend to identify those students. Many of the statements are handwritten and release of such would tend to identify the students who wrote them. *See generally* Open Records Decision No. 224 (1979). Release of other statements, whether written by students or parents, would tend to identify students because of the nature of the information contained therein and because of the relatively small number of students to whom the information involved could be applicable. *See generally* Open Records Decision No. 294 (1981).

Although the requested information relates to the requestor and such information is maintained in the requestor's personnel file, release of the requested information would not be possible without releasing material related to students who have not consented to its release. Accordingly, the requested may be excepted from required public disclosure under sections 3(a)(14) and 14(e) of the Open Records Act.

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 OR91-393.

Very truly yours,



Rick Gilpin
Assistant Attorney General
Opinion Committee

RG/GK/lb

Ref.: ID# 12209, 12229, 12299

cc: Dr. Barbara Washington
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