



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

June 29, 1993

Mr. Randel B. Gibbs  
Law Offices of Earl Luna, P.C.  
4411 Central Building  
4411 North Central Expressway  
Dallas, Texas 75205

OR93-134

Dear Mr. Gibbs:

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# 19107.

The Garland Independent School District (the "school district"), which you represent, has received a request for information concerning a former school district student. Specifically, the requestor seeks the home address, telephone number, date of birth and social security number of a former student for purposes of a child support enforcement action. You ask whether the home address, telephone number, and date of birth of the former student constitute releasable "directory information" under the federal Family Education Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g. You also claim that the former student's social security number is excepted from required public disclosure under section 3(a)(14) of the Open Records Act.<sup>1</sup>

Information may be transferred from one governmental body to another without impairing confidentiality if a statute or contract requires that the records remain confidential in the recipient's custody. Open Records Decision Nos. 424; 417 (1984). However, transfer of information between governmental bodies is not permissible where a statute specifically limits the availability of information to specifically named entities. Attorney General Opinion JM-590 (1986).

---

<sup>1</sup>You claim that other information on the document containing the requested information is excepted from required public disclosure by section 3(a)(14). However, because this information has not been requested, we need not address its availability here.

The requestor is designated the statewide agency to administer a statewide plan for child support. Hum. Res. Code § 76.001. The requestor seeks the former student's social security number pursuant to section 77.001 of the Human Resources Code, which provides in part:

(a) The state agency designated to administer a statewide plan for child support may establish and conduct a parent locator service which shall be used to obtain information as to the whereabouts, income, and holdings of any person when such information is to be used for the purposes of locating such person and establishing or enforcing a support or medical support obligation against such person.

(b) The designated state agency may request such information from state and local government agencies . . . as deemed necessary to carry out the provisions of this Act. Such government and private entities shall furnish any information so requested and known to such entity to the designated agency, *except to the extent such information is made nondisclosable by law.* [Emphasis added.]

*See also* Hum. Res. Code, § 76.002 (authorizing attorney general to "obtain records and information relating to the location, income, and property holdings of an absent parent from other state and local agencies"); *id.* § 76.006 (making confidential information obtained under section 76.002 of the Human Resources Code).

In Open Records Decision No. 516 (1989), this office determined that the Texas Department of Public Safety was required to provide the home address and telephone number of a peace officer to the Office of the Attorney General's Child Support Enforcement Division for the office's internal confidential use, even though the peace officer's home address and telephone number were made confidential by section 3(a)(17) of the Open Records Act. In that decision, this office determined that section 10(a) of the Open Records Act, which prohibits the release of confidential information, is not violated where confidential information is released to another state agency which has authority to obtain it and is prohibited from further releasing it. Open Records Decision No. 516 is inapplicable here, however, because release of the requested information at issue is governed by federal law, not the Open Records Act.

FERPA, 20 U.S.C. § 1232g, which is incorporated into the Open Records Act, V.T.C.S. art. 6252-17a, § 14(e), provides the following:

No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of educational records (or personally identifiable information contained therein . . .) of students with-

out the written consent of their parents to any individual, *agency*, or organization . . . . [Emphasis added.]

20 U.S.C. § 1232g(b)(1).<sup>2</sup> "Education records" are 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.

*Id.* § 1232g(a)(4)(A). Information must be withheld from required public disclosure under FERPA only to the extent "reasonable and necessary to avoid personally identifying a particular student." Open Records Decision Nos. 332 (1982); 206 (1978). FERPA applies to "education records" regarding an individual that relates to his activities while a student, even when the individual is no longer a student. Open Records Decision No. 524 (1989).

While you concede that the student's address, telephone number, and date of birth constitute "directory information" as defined by FERPA, *see* 20 U.S.C. § 1232g, § (a)(5)(A), you ask whether the school district is prohibited by FERPA from releasing the directory information of a "specific" student. We are unaware of any authority construing FERPA to prohibit the release of such directory information under these circumstances. To our knowledge, however, nothing in FERPA permits disclosure of the student's social security number to the requestor.<sup>3</sup> Accordingly, we conclude that the former student's social security number is made confidential by FERPA and section 14(e) of the Open Records Act, and thus may not be released to the requestor under section 77.001 of the Human Resources Code.

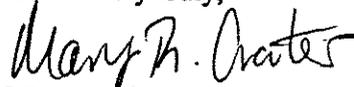
---

<sup>2</sup>In conjunction with your claim that FERPA excepts the requested information from required public disclosure, your refer us to section 3(a)(14) of the Open Records Act. Section 14(e) incorporates the requirements of the FERPA into the Open Records Act and provides that they prevail over other inconsistent provisions of the Open Records Act. Open Records Decision No. 431 (1985). Section 3(a)(14) excepts from required public disclosure "student records at educational institutions funded wholly, or in part, by state revenue . . . ." V.T.C.S. art. 6252-17a, § 3(a)(14). The phrase "student records" in section 3(a)(14) has generally been construed to be the equivalent of "education records." Thus, our discussion of FERPA also resolves the application of section 3(a)(14) to the requested information. *See generally* Attorney General Opinion H-447 (1974); Open Records Decision Nos. 539 (1990); 477 (1987); 332 (1982).

<sup>3</sup>We are not aware, for example, of any judicial decisions holding that FERPA's general prohibitions against disclosure are inapplicable to requests for records from state agencies for law enforcement purposes. We also note that to the extent they conflict, FERPA prevails over state law. Attorney General Opinions DM-124 (1992) at 7-8; DM-49 (1991) at 6.

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 OR93-134.

Yours very truly,



Mary R. Crouter  
Assistant Attorney General  
Opinion Committee

MRC/GCK/le

Ref.: ID# 19107

cc: Ms. Isabel Fugo  
Office of the Attorney General  
Child Support Enforcement Division  
10125 Shiloh Road, Suite 260  
Dallas, Texas 75228