



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 26, 1993

Mr. John S. Aldridge
Walsh, Judge, Anderson,
Underwood & Schulze, P.C.
6300 La Calma, Suite 200
Austin, Texas 78752

OR93-266

Dear Mr. Aldridge:

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# 19866.

The Marfa Independent School District (the "school district"), which you represent, has received a request for information regarding a specified student. Specifically, the requestor seeks records indicating the student's attendance record and graduation from Marfa High School, the date entered ninth grade, the date of his graduation, and his cumulative grade point average. You advise us that most of the requested information has been or will be made available to the requestor. You have submitted to us for review, however, the student's "Academic Achievement Record" (Attachment B). You object to release of some of the information contained on this record, claiming that it is excepted from required public disclosure by section 14(e) of the Open Records Act.

Section 14(e) incorporates the requirements of the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, into the Open Records Act, and makes them prevail over conflicting provisions of the Open Records Act. *See* Open Records Decision No. 431 (1985). FERPA 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 other than directory information, as defined in paragraph (5) of subsection (a)...) of students without the written consent of their parents to any individual, agency, or organization.

20 U.S.C. § 1232g(b)(1). "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).

You have marked those portions of the student's "Academic Achievement Record" that you claim are excepted under section 14(e) of the Open Records Act. Generally, the marked information includes the student's grade point average and other educational record information. We note, however, that you have marked the names of the student's parents. Directory information includes the names and addresses of parents. *See* Open Records Decision Nos. 242 (1980); 151 (1977); 34 C.F.R. § 99.37(b) (schools are not required to give notice to former students prior to release of directory information). Except for the names of the student's parents, we agree that the marked information is governed by FERPA and thus need not be released under 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 contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Opinion Committee

LRD/GCK/le

Ref.: ID# 19866

cc: Mr. Robert Louis Halpern
Editor, Publisher
Big Bend Sentinel
Box P
Marfa, Texas 79843