



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 28, 1994

Ms. Patricia A. Macías
Rodriguez, Lewis & Collins
1220 Montana Avenue
El Paso, Texas 79902

OR94-752

Dear Ms. Macías:

As counsel for the Ysleta Independent School District (the "school district"), you ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 29453.

The school district received a request for "all parents' statements for the months of August and September, 1994, in regard to" a certain teacher. The school district asserts that the requested information is excepted from required public disclosure based on section 552.114 of the Government Code, and by the Family Educational Rights and Privacy Act of 1974 ("FERPA"), 20 U.S.C. § 1232g, which is incorporated into the Open Records Act by section 552.026 of the Government Code.

Section 552.026 of the Government Code states that

This chapter does not require the release of information contained in education records of an educational agency or institution, except in conformity with the Family Educational Rights and Privacy Act of 1974, Sec. 513, Pub. L. No. 93-380, 20 U.S. C. Sec. 1232g.

FERPA provides that no federal funds will be made available

to any educational agency or institution which has a policy or practice of permitting the release of education records (or personally identifiable information contained therein . . .) of students without the written consent of their parents.

20 U.S.C. § 1232g(b)(1). "Education records" are those records, files, documents, and other materials which

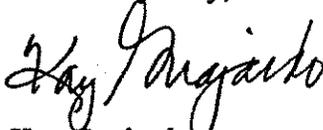
- (i) contain information directly related to a student; and
- (ii) are maintained by an educational agency or institution or by a person acting for such agency or institution.

Id. § 1232g(a)(4)(A). We believe that the requested letters are "education records" for purposes of FERPA. *See* Open Records Decision No. 332 (1982). However, section 552.026 in conjunction with FERPA may not be used to withhold entire documents; the school district must delete information only to the extent "reasonable and necessary to avoid personally identifying a student" or one or both of the student's parents. *See id.*; Open Records Decision No. 206 (1978). Thus, only information identifying or tending to identify students or their parents must be withheld from required public disclosure.

We have examined the letters and conclude that some of the information identifies or tends to identify students or their parents. This information has been marked and must be withheld from required public disclosure under section 552.026 of the Government Code. The remaining information, however, does not identify or tend to identify students or their parents and must be released.

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,



Kay Guajardo
Assistant Attorney General
Open Government Section

KHG/TCC/rho

Ref.: ID# 29453

Enclosures: Marked documents

cc: Mr. David A. Simmental
Attorney at Law
The Willows
9434 Viscount, Suite 101
El Paso, Texas 79925
(w/o enclosures)