



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

January 30, 1996

Ms. Yvette Clark  
General Counsel  
Stephen F. Austin State University  
P.O. Box 13065, SFA Station  
Nacogdoches, Texas 75962-3065

OR96-0111

Dear Ms. Clark:

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 # 38036.

Stephen F. Austin State University ("SFA") received a student's request for records regarding a particular faculty member. You contend the requested information is excepted from required public disclosure under the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g, and section 552.101 of the Government Code. You have submitted de-identified copies of the pertinent records for review.

Section 552.026 of the Government Code incorporates the requirements of the federal FERPA into the Open Records Act. 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 education records (or personally identifiable information contained therein . . .) 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 that

- (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); *see also* Open Records Decision Nos. 462 (1987) at 14-15; 447 (1986). 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).

In the present case, the student names have been redacted from the letters submitted for our review. Thus, the university has deleted all information to the extent "reasonable and necessary to avoid personally identifying a particular student" or former student. The two typewritten, de-identified letters must therefore be disclosed.

We note for future reference that this office has recently ruled that (1) an educational agency or institution may withhold from public disclosure information that is protected by FERPA and excepted from required public disclosure by sections 552.026 and 552.101 without the necessity of requesting an attorney general decision as to those exceptions, and (2) an educational agency or institution that is state-funded may withhold from public disclosure information that is excepted from required public disclosure by section 552.114 as a "student record," insofar as the "student record" is protected by FERPA, without the necessity of requesting an attorney general decision as to that exception. Open Records Decision No. 634 (1995) (copy attached).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

  
Janet L. Monteros  
Assistant Attorney General  
Open Records Division

JIM/ch

Ref: ID # 38036

Enclosures: Submitted documents  
Open Records Decision 634 (1995)