



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 8, 1996

Mr. Charles E. Thompson
116 West Hiram Street
P.O. Box 1046
Atlanta, Texas 75551-1046

OR96-0497

Dear Mr. Thompson:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 32168.

The Queen City Independent School District (the "district") received a request for a video tape which apparently shows an altercation between several students. You state that the parents of one of the students involved in the altercation have requested that they be furnished a copy of the video tape. You assert that the tape is protected from disclosure under sections 552.103 and 552.114 of the Government Code.

It appears that the video tape may be excepted from disclosure under the federal Family Educational Rights and Privacy Act of 1974 ("FERPA"), 20 U.S.C. § 1232g, or section 552.114 of the Government Code. This office has recently issued Open Records Decision No. 634 (1995), which concluded: (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. Thus, you may withhold student records from disclosure without seeking a decision from this office.

We remind you that Open Records Decision No. 634 (1995) applies only to "education records" under FERPA. "Education records" are records that

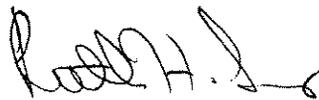
- (i) contain information directly related to a student; and

- (ii) are maintained by an educational agency or institution or by a person acting for such agency or institution.

20 U.S.C. § 1232g(a)(4)(A). *See also* Open Records Decision Nos. 462 (1987), 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).¹ We believe that this ruling is dispositive as to the video tape at issue.² If you have questions as to the applicability of FERPA to information that is the subject of an open records request, you may consult with the United States Department of Education's Family Policy Compliance Office. *See* Open Records Decision No. 634 (1995) at 4, n.6, 8.

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,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/SAB/rho

Ref.: ID# 32168

Enclosures: Open Records Decision No. 634 (1995)
Submitted video tape

cc: Mr. Errol N. Friedman
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P.O. Box 2630
Texarkana, Texas 75504-2630
(w/enclosure-Open Records Decision No. 634 (1995))

¹*But see* 20 U.S.C. § 1232g(a)(1)(A), (d) (parent or adult student has affirmative right of access to that student's education records). *See also* Open Records Decision No. 431 (1985) (Open Records Act's exceptions to required public disclosure do not authorize withholding of "education records" from adult student).

²Because we conclude that section Open Records Decision No. 634 (1995) resolves this request, we need not now consider other exceptions to required public disclosure.