



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 30, 1996

Ms. Doreen E. McGookey
Assistant City Attorney
Office of the City Attorney
501 Police & Courts Building
Dallas, Texas 75201

OR96-2466

Dear Ms, McGookey:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 102719.

The City of Dallas (the "city") received a request for the resumes of certain named employees. The requestor also sought information about education pay and education reimbursement for certain employees. The records submitted to this office as responsive to the request are educational benefit reimbursement requests from employees, with information about the educational courses that were taken.¹ You contend that the information at issue is protected pursuant to sections 552.026, 552.101, and 552.114 of the Government Code.

Section 552.114 excepts from disclosure student records at an educational institution funded completely or in part by state revenue. Section 552.026 excepts from disclosure educational records unless released in conformity with the Family Educational Rights and Privacy Act ("FERPA"), title 20 of the United States Code, section 1232g. FERPA provides that federal funding shall not be made available to "any educational agency or institution which has a policy or practice of permitting the release of educational records" of students without the written consent of the parents of a minor student. 20 U.S.C. § 1232g(b)(1). If the student is 18 years of age or older or attends a

¹You did not submit the requested employment resumes to this office for review. We thus assume that the resumes, with Government Code section 552.117 information redacted, were provided to the requestor.

postsecondary educational institution, the student must give written consent to allow the release of education records.² *Id.* § 1232g(d).

Your assertion apparently is that these reimbursement records are maintained solely by the Dallas Police Department Academy (the "academy") rather than the city police department. You also state that the academy is an "educational agency or institution" whose records are subject to FERPA.³ We note initially that the request was made to the city rather than to the academy, and that if the city also maintains these records, they are not protected from disclosure under section 552.114 or FERPA. *See* Open Records Decision No. 390 (1983). We also note that the reimbursement requests are for courses taken at various educational institutions other than the academy. However, we agree that if these records are maintained by the academy and the academy is subject to FERPA, these are education records that may not be disclosed without student consent.⁴ Open Records Decision No. 427 (1985).

We are resolving this matter with an informal letter ruling rather than with a published open records decision.⁵ 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/ch

²We note that the term "student record" in section 552.114 has been generally construed to be the equivalent of "education record." *See generally* Attorney General Opinion H-447 (1974); Open Records Decision Nos. 539 (1990), 477 (1987), 332 (1982).

³We thus assume that the academy receives federal funding for its educational programs.

⁴Please note that in Open Records Decision No. 634 (1995), this office concluded 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.

⁵You also asserted that the records should be withheld on the basis of common-law privacy under section 552.101. We need not address this argument since the records are otherwise protected from disclosure.

Ref: ID#102719

Enclosures: Submitted documents

cc: Ms. Jane E. Bishkin
Staff Attorney
Texas Conference of Police and Sheriffs
1414 N. Washington
Dallas, Texas 75204
(w/o enclosures)

12

