



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

May 20, 1997

Mr. James E. Cousar  
Thompson & Knight  
1200 San Jacinto Center  
98 San Jacinto Boulevard  
Austin, Texas 78701-4081

OR97-1170

Dear Mr. Cousar:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 33345.

The Highland Park Independent School District (the "district"), which you represent, received a request for the name, home address, home telephone number, and parent's or guardian's last name of each student in the district's high schools. First, you contend that the requested information comes under the protection of section 552.114 of the Government Code. Second, you assert that if the requested information is not protected by section 552.114, you must have the opportunity to comply with parental notification procedures prior to release of the information. Although you have not submitted the requested information, we nevertheless will rule on your request.

Section 552.114 exempts from disclosure student records at an educational institution funded completely or in part by state revenue. Section 552.026 provides as follows:

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.

The Family Educational Rights and Privacy Act of 1974 ("FERPA") provides that no federal funds will be made available under any applicable program to an educational agency or institution that releases personally identifiable information (other than directory information)<sup>1</sup> contained in a student's education records to anyone but certain enumerated

---

<sup>1</sup>Examples of directory information are: "[a] student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student." 20 U.S.C. § 1232g(a)(5)(A). The attorney general has determined that marital status and expected date of graduation also constitute directory information. Open Records Decision No. 96 (1975).

federal, state, and local officials and institutions, unless otherwise authorized by the student's parent. *See* 20 U.S.C. § 1232g(b)(1). "Education records" means those records that contain information directly related to a student and are maintained by an educational agency or institution or by a person acting for such agency or institution. *Id.* § 1232g(a)(4)(A).

You advise us that the district receives no federal funds; therefore, the governing provision is section 552.114, not section 552.026 and FERPA. We agree. However, this office generally applies the same analysis under section 552.114 and FERPA. Open Records Decision No. 539 (1990). This office has generally treated "student record" information as the equivalent of "education record" information that is protected by FERPA. *See id.*, *see also* Open Records Decision No. 634 (1995) (an educational agency or institution that is state-funded may withhold from public disclosure information that is excepted from public disclosure by section 552.114 as a "student record," insofar as the "student records" is protected by FERPA). Thus, because FERPA does not except directory information from public disclosure, the requested directory information, likewise, is not "student record" information that is excepted from disclosure by section 552.114.

Next, we address your notification assertion. Although FERPA permits an educational agency or institution to release directory information in accordance with federal notice requirements, *see* 20 U.S.C. § 1232g(a)(5)(B) (providing notice requirements that afford affected students right to object to release of directory information relating to them), the Texas Open Records Act requires an educational agency or institution to give notice and an opportunity to object to the release of requested directory information as required by federal law. Open Records Decision Nos. 634 (1995) at 2 n. 2, 244 (1980) at 2. As stated above, FERPA is inapplicable here. There is no comparable state law requiring notification prior to release of directory information. Thus, the district is not obligated to notify the students' parents, and you must release the requested information since no other exception has been asserted.

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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Yen-Ha Le  
Assistant Attorney General  
Open Records Division

Ref.: ID# 33345

cc: Mr. Phillip Snow  
Director of Sales  
Contemporary Plaques  
15502 Galveston Rd., #220  
Webster, Texas 77598

11

12

13

14