



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 26, 1998

Mr. Dennis J. Eichelbaum
Schwartz & Eichelbaum, P.C.
General Counsel
3700 Ross Avenue Box 69
Dallas, Texas 75204-5491

OR98-0244

Dear Mr. Eichelbaum:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 112287.

The Dallas Independent School District (the "district"), which you represent, received a request for information about all students in the first through the fifth grade, who attend various elementary schools in the district. The requestor seeks (1) student name, (2) parents' names, (3) address, including city, state, and zip code, (4) telephone number, if available, (5) name of elementary school each student attends, (6) grade each student is in, and (7) gender of student, if available. You assert that these records are student records protected from disclosure under federal law and under section 552.114 of the Government Code.

We note that in Open Records Decision No. 634 (1995), this office concluded that (1) an educational agency or institution may withhold from public disclosure student records that are protected by the Family Educational Rights and Privacy Act ("FERPA"), title 20 of the United States Code, section 1232g 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.¹ However, as you seek a decision from this office,

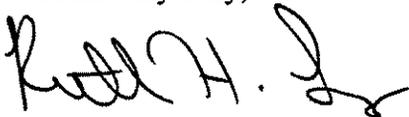
¹Section 552.114 requires that "information in an student record at an educational institution funded wholly or partly by state revenue" must be withheld, but may be made available on the request of the student or other authorized person. Section 552.026 provides as follows:

we will address your argument against disclosure of the records.

FERPA provides that no federal funds will be made available under any applicable program to an educational agency or institution that releases identifying information in a minor student's records without parental consent. 20 U.S.C. § 1232g(b)(1). However, "directory information" is not subject to the FERPA confidentiality provisions. *Id.* § 1232g(b)(1). Directory information is subject to release after compliance with notice requirements that provide parents the right to object to the release of directory information. *Id.* § 1232g(a)(5)(B). Directory information is defined as the type of information contained in an education record of a student that would not be considered harmful or an invasion of privacy if disclosed. 34 CFR § 99.3. Directory information "includes but is not limited to" student name, address, telephone listing, date and place of birth, major field of study, participation in official recognized activities and sport, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and most recent previous educational agency or institution attended. *Id.* As the information requested falls within the definition of directory information, once the district has followed the notice provisions of 20 U.S.C. 1232g(a)(5)(B), the requested information must be provided. 20 U.S.C. § 1232g(a)(5)(A) (defining "directory information"); 34 CFR § 99.3 (defining directory information); Open Records Decision No. 242 (1980).

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 any questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 112287

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.

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

cc: Mr. Mike Burk
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