



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

February 6, 1998

Mr. William T. Armstrong, III  
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Attorneys at Law  
Trinity Plaza II  
745 East Mulberry, Suite 900  
San Antonio, Texas 78212-3166

OR98-0378

Dear Mr. Armstrong:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 112327.

The North East Independent School District (the "school district"), which you represent, received a request for a copy of a particular individual's application for the "Free School Lunch Program." The school district has released to the noncustodial parent, who is the requestor, information concerning his children's meals under the program. You contend that the custodial parent's application for the "Free School Lunch Program" is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and have reviewed the documents at issue.

Section 552.101 of the Government Code excepts from disclosure information considered to be confidential by law, either constitutional, statutory, or by judicial decision. This section encompasses information protected by other statutes. Accordingly, we note that 42 U.S.C.A. §1758 (b)(2)(C)(iii) reads:

(iii) The use or disclosure of any information obtained from an application for free or reduced price meals, or from a State or local agency referred to in clause (ii), shall be limited to—

(I) a person directly connected with the administration or enforcement of this chapter or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), or a regulation issued pursuant to this chapter or such Act;

(II) a person directly connected with the administration or enforcement of—

(aa) a Federal education program;

(bb) a State health or education program administered by the State or local education agency (other than a program carried out under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.)); or

(cc) a Federal, State, or local means-tested nutrition program with eligibility standards comparable to the program under this section; and

(III)(aa) the Comptroller General of the United States for audit and examination authorized by any other provision of law; and

(bb) notwithstanding any other provision of law, a Federal, State, or local law enforcement official for the purpose of investigating an alleged violation of any program covered by paragraph (1) or this paragraph.

(iv) Information provided under clause (iii)(II) shall be limited to the income eligibility status of the child for whom application for free or reduced price meal benefits was made or for whom eligibility information was provided under clause (ii), unless the consent of the parent or guardian of the child for whom application for benefits was made is obtained.

(v) A person described in clause (iii) who publishes, divulges, discloses, or makes known in any manner, or to any extent not authorized by federal law (including a regulation), any information obtained under this subsection shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both.

Furthermore, in pertinent part, the United States Department of Agriculture, through a Regulatory Opinion dated December 27, 1990, Food and Nutrition Service, issued a directive to all state directors concerning the disclosure of information to persons other than the guardian of a child, which reads in part:

Further, USDA has not given any State or school district permission to release any information from the free and reduced price application or to use such information for any purpose other than to determine eligibility for school meal benefits or to verify such eligibility.

In keeping with the legislative prohibition on overt identification, USDA has consistently maintained a policy that the information on the application for free and reduced price meal benefits is confidential . . .

[C]onsequently, USDA has consistently prohibited the release of the names of children eligible for free and reduced price benefits and other information concerning the household to any individual or for any purposes not connected with the administration of the school nutrition program. . . . Thus, free and reduced price application information may not be released to anyone, including a non-custodial parent, for non-program purposes.

Examining the submitted records under "Exhibit B," we note that information gathered for determination of eligibility of the free lunch program is confidential pursuant to section 552.101 of the Government Code, in conjunction with federal law, and cannot be released. Therefore, pursuant to section 552.101 of the Government Code, the school district must withhold the information.

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,



Janet L. Monteros  
Assistant Attorney General  
Open Records Division

JIM/alg

Ref: ID# 112327

Enclosures: Submitted documents

cc: Mr. Michael McArdle  
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(w/o enclosures)