



June 28, 2001

Mr. William M. Buechler
Buechler & Associates, P. C.
814 San Jacinto Boulevard, Suite 408
Austin, Texas 78701-2404

OR2001-2791

Dear Mr. Buechler:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 148858.

The Brownwood Independent School District (the “district”), which you represent, received a request for copies of all investigative reports regarding an assault by a specified individual against the requestor’s son. You claim that the submitted information is excepted under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

We note that the submitted information consists of student education records which are subject to the Family Educational Rights and Privacy Act (“FERPA”), 20 U.S.C. § 1232g. “Education records” are those records that contain information directly related to a student and that are maintained by an educational agency or institution or by a person acting for such agency or institution. *See* 20 U.S.C. § 1232g(a)(4)(A). Section 552.114(a) of the Government Code requires that an educational agency withhold “information in a student record at an educational institution funded wholly or partly by state revenue.” Further, section 552.026 provides that “chapter [552] does not require the release of information contained in education records of an educational agency or institution, except in conformity with [FERPA].” This office generally applies the same analysis under section 552.114 and FERPA.

Further, FERPA provides that “[n]o funds shall be made available under any applicable program to any educational agency or institution which has a policy of denying, or which effectively prevents, the parents of students who are or have been in attendance at a school of such agency or at such institution, as the case may be, *the right to inspect and review the education records of their children.*” 20 U.S.C. § 1232g(a)(1)(A) (emphasis added). You argue that the submitted information is excepted from public disclosure under

section 552.103 of the Government Code. Generally, exceptions to disclosure under the Public Information Act do not apply to a student's or parent's request for educational records pursuant to FERPA. See Open Records Decision No. 431 (1985) (finding that predecessor to section 552.103 does not apply to a student's request for his own records). Thus, we conclude that you must release the education records concerning the requestor's child to the requestor.¹

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

¹Questions about FERPA can be directed to the Family Policy Compliance Office of the U. S. Department of Education at (202) 260-3887.

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in cursive script that reads "Jennifer Bialek".

Jennifer Bialek
Assistant Attorney General
Open Records Division

JHB/sdk

Ref: ID# 148858

Enc. Submitted documents