



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 2, 2009

Ms. Cathy Cunningham
Boyle & Lowry, L.L.P.
4201 Wingren, Suite 108
Irving, Texas 75062-2763

OR2009-04308

Dear Ms. Cunningham:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 339223.

The Westlake Academy (the "academy"), which you represent, received a request for the academy's waiting list. You claim that the requested information is excepted from disclosure under section 552.114 of the Government Code and section 552.101 of the Government Code in conjunction with the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232(a). We have considered the exceptions you claim and reviewed the submitted information.

We note that the United States Department of Education Family Policy Compliance Office informed this office that FERPA does not permit state and local educational authorities to disclose to this office, without parental consent, unredacted, personally identifiable information contained in education records for the purpose of our review in the open records ruling process under the Act.¹ Consequently, state and local educational authorities that receive a request for education records from a member of the public under the Act must not submit education records to this office in unredacted form, that is, in a form in which "personally identifiable information" is disclosed. *See* 34 C.F.R. § 99.3 (defining "personally identifiable information"). You state that the submitted information consists of

¹A copy of this letter may be found on the Office of the Attorney General's website: <http://www.oag.state.tx.us/open/20060725usdoe.pdf>.

student identifying education records that are protected under FERPA. Because our office is prohibited from reviewing these education records, we will not address the applicability of FERPA to any of this information. Such determinations under FERPA must be made by the educational authority in possession of the education records.² Accordingly, we also do not address your arguments under section 552.114 of the Government Code. *See Gov't Code §§ 552.026 (incorporating FERPA into the Act), .114 (excepting from disclosure "student records"); Open Records Decision No. 539 (1990) (determining the same analysis applies under section 552.114 of the Government Code and FERPA).*

Sincerely,



Laura E. Ream
Assistant Attorney General
Open Records Division

LER/dls

Ref: ID# 339223

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²In the future, if the academy does obtain parental consent to submit unredacted education records and the academy seeks a ruling from this office on the proper redaction of those education records in compliance with FERPA, we will rule accordingly.