



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 24, 2010

Mr. Fortunato G. Paredes
Escamilla & Poneck, Inc.
For United Independent School District
216 West Village Boulevard, Suite 202
Laredo, Texas 78041

OR2010-02777

Dear Mr. Paredes:

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# 371111.

The United Independent School District (the "district"), which you represent, received a request for reports and surveillance videos related to a specified disciplinary action. You state that the district has released some of the requested information to the requestor. You claim that the submitted 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).¹ 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

¹Although you also raise section 552.026 of the Government Code as an exception to disclosure, section 552.026 is not an exception to disclosure. Rather, section 552.026 provides that the Act does not require the release of information contained in education records except in conformity with the Family Educational Rights and Privacy Act of 1974, Gov't Code § 552.026. Additionally, although you also initially raised section 552.108 of the Government Code, you have not submitted arguments explaining how this exception applies to the submitted information. Therefore, we presume that you have withdrawn this exception. *See id.* §§ 552.301, .302.

ruling process under the Act.² 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 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.³ 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).

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Tamara Wilcox
Assistant Attorney General
Open Records Division

TW/dls

²A 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>.

³In the future, if the district 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.

Ref: ID# 371111

Enc. Submitted documents

c: Requestor
(w/o enclosures)