



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 6, 2010

Mr. Paul Hunn
Attorney for Blanco Independent School District
The Lyric Centre
440 Louisiana, Suite 900
Houston, Texas 77002

OR2010-09870

Dear Mr. Hunn:

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# 385340.

The Blanco Independent School District (the "district"), which you represent, received a request for (1) the criteria for the selection of the faculty panel established to select the National Honor Society members, (2) the names and academic background of the panel members, (3) the rankings of the requestor's child from each member of the panel, (4) the tabulated vote from the faculty panel regarding the requestor's son, and (5) any information relative to the group prayer that was part of the Blanco High School National Honor Society Meeting. You state you do not possess any information responsive to the first and fifth categories of the request.¹ You state the district has released some information responsive to the second, third, and fourth categories of the request with identifying information of students other than the requestor's child redacted pursuant to the Family Educational Rights

¹The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990).

and Privacy Act (“FERPA”), section 1232g of title 20 of the United States Code² and redactions pursuant to section 552.147 of the Government Code.³ You claim that portions of the submitted information are excepted from disclosure under sections 552.101, 552.102, and 552.117 of the Government Code.⁴ We have considered the exceptions you claim and reviewed the submitted information. We have also considered comments submitted by the requestor. *See* Gov’t Code § 552.304 (interested party may submit comments stating why information should or should not be released).

You state the submitted information consists of transcripts of district teachers that are excepted from disclosure under section 552.102(b) of the Government Code. Section 552.102(b) excepts from disclosure all information from transcripts of professional public school employees other than the employee’s names, the courses taken, and the degrees obtained. *Id.* § 552.102(b); Open Records Decision No. 526 (1989). Thus, with the exception of the district employees’ names, courses taken, and degrees obtained, which must be released to the requestor, the district must withhold the submitted transcripts pursuant to section 552.102(b) of the Government Code.⁵

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,

²The United States Department of Education Family Policy Compliance Office (the “DOE”) has informed this office FERPA does not permit state and local educational authorities to disclose to this office, without parental or student consent, unredacted, personally identifiable information contained in education records for the purpose of our review in the open records ruling process under the Act. The DOE has determined FERPA determinations must be made by the educational authority in possession of the education records. We have posted a copy of the letter from the DOE to this office on the Attorney General’s website: <http://www.oag.state.tx.us/open/20060725usdoe.pdf>.

³Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person’s social security number from public release without the necessity of requesting a decision from this office under the Act. *See* Gov’t Code § 552.147(b).

⁴We note that the district failed to raise section 552.117 within the ten business day deadline mandated in section 552.301(b). *See* Gov’t Code § 552.301(b). However, because section 552.117 is a mandatory exception that can provide a compelling reason to withhold information, we will consider your arguments under this exception. *See id.* § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990; no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302)

⁵As our ruling is dispositive, we need not address your remaining arguments for this information.

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,

A handwritten signature in cursive script that reads "Jonathan Miles". The signature is written in black ink and is positioned above the typed name.

Jonathan Miles
Assistant Attorney General
Open Records Division

JM/jb

Ref: ID# 385340

Enc. Submitted documents

c: Requestor
(w/o enclosures)