



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 13, 2011

Ms. Melanie L. Hollmann  
Atkins, Hollmann, Jones, Peacock, Lewis & Lyon  
3800 East 42<sup>nd</sup> Street, Suite 500  
Odessa, Texas 79762

OR2011-00716

Dear Ms. Hollmann:

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# 406010.

The Ector County Independent School District (the "district"), which you represent, received a request for a specified report made by a named individual, "as well as all reports done[,] "a written report stating the investigation had been completed, the results of the investigation, and the date it ended." You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You state the submitted information must be withheld pursuant to the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g. The United States Department of Education Family Policy Compliance Office (the "DOE") has informed this office that FERPA does not permit a state educational agency or institution to disclose to this office, without parental or an adult student's consent, unredacted, personally identifiable information contained in education records for the purpose of our review in the open records ruling process under the Act.<sup>1</sup> See 34 C.F.R. § 99.3 (defining "personally identifiable information"). However, FERPA is not applicable to law enforcement records maintained by the district's police department for law enforcement purposes. 20 U.S.C.

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<sup>1</sup>A 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>.

§ 1232g(a)(4)(B)(ii); 34 C.F.R. §§ 99.3 (defining "education record"), .8. You state the information at issue is maintained by the district's police department for the purposes of its criminal investigation. Accordingly, because the information is maintained by a law enforcement unit of an educational agency, the information does not constitute an education record subject to FERPA and no portion of it may be withheld on that basis.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes, such as section 261.201 of the Family Code, which provides:

(a) [T]he following information is confidential, is not subject to public release under [the Act] and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

- (1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and
- (2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

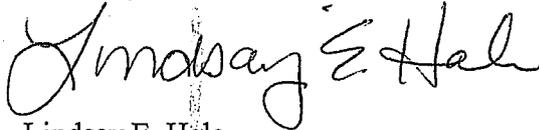
Fam. Code § 261.201(a). We note the district is not an agency authorized to conduct a chapter 261 investigation. *See id.* § 261.103 (listing agencies that may conduct child abuse investigations). However, you inform our office the information at issue was compiled by the district's police department for the purposes of its criminal investigation. Because the requested information pertains to an investigation of alleged or suspected child abuse or neglect, the information is within the scope of section 261.201 of the Family Code. *See id.* §§ 101.003(a) (defining "child" for purposes of this section as person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes), 261.001(1), (4) (defining "abuse" and "neglect" for purposes of chapter 261 of the Family Code). You state the district has not adopted a rule that governs the release of this type of information. Based on your representations and our review, we determine the submitted information is confidential pursuant to section 261.201 of the Family Code. *See Open Records Decision No. 440 at 2 (1986) (predecessor statute).* Accordingly, the district must withhold the information at issue from disclosure under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. Furthermore, because section 261.201(a) protects all "files, reports, communications, and working papers" related to an investigation of child abuse, the district must not release front page offense report information in cases of alleged child abuse. *See Fam. Code*

§ 261.201(a)(2). As our ruling is dispositive, we need not address your remaining argument against disclosure of the information at issue.

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](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,



Lindsay E. Hale  
Assistant Attorney General  
Open Records Division

LEH/em

Ref: ID# 406010

Enc. Submitted documents

c: Requestor  
(w/o enclosures)