



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 20, 2011

Ms. DeAndrea C. Washington
Attorney for Humble Independent School District
Thompson & Horton, LLP
711 Louisiana Street, Suite 2100
Houston, Texas 77002-2746

OR2011-01014

Dear Ms. Washington:

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# 406386.

The Humble Independent School District (the "district"), which you represent, received eleven requests from the same requestor for (1) all referrals for special education evaluations from January 2010 to the date of the request, and (2) a list of children receiving proportionate share services at a specified entity during September 2010. The requestor has specifically excluded from her request student and parent names, addresses, and personally identifiable information for those referrals that are enrolled in district schools.¹ You state that the district has previously provided the requestor with an unredacted copy of her child's records. *See* Gov't Code § 552.232 (prescribing procedures for response to repetitious or redundant requests for information). You claim that portions of the remaining requested information are exempted from disclosure under section 552.101 of the Government Code. We have

¹ Accordingly, any such information is not responsive to this request. The district need not release any non-responsive information, and this ruling will not address such information, including your arguments under the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g.

considered the claimed exception and reviewed the submitted representative sample of information.²

Section 552.101 excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses statutes that make information confidential, such as section 1417 of Part B of the Individuals with Disabilities Education Act ("IDEA"). This section provides:

The Secretary [of Education] shall take appropriate action, in accordance with [FERPA], to ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the Secretary and by State educational agencies and local educational agencies pursuant to this subchapter.

20 U.S.C. § 1417(c); *see* 34 C.F.R. § 99.3 (defining "personally identifiable information"). Section 300.111 of title 34 of the Code of Federal Regulations, which provides regulations for the administration of IDEA, pertains to Child Find activities. Section 300.111 provides in relevant part:

(1) The State must have in effect policies and procedures to ensure that—

(i) All children with disabilities residing in the State, including children with disabilities who are homeless children or are wards of the State, and children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located, and evaluated; and

(ii) A practical method is developed and implemented to determine which children are currently receiving needed special education and related services.

34 C.F.R. § 300.111(a). You state that the information at issue was collected pursuant to the district's Child Find obligations under Part B of IDEA. *See* 20 U.S.C. § 1412(a)(3). You explain that Exhibits B, C, and D pertain to the IDEA-required evaluation and assessment of students who are not, and have never been, students of the district. You state that

² We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Exhibit F pertains to students who are currently receiving proportionate share services from the district as required by IDEA, but who are not, and have never been, students of the district. Thus, based on your representations and our review of the information at issue, we conclude that the district must withhold all personally identifying information contained in the information at issue under section 552.101 of the Government Code in conjunction with section 1417(c) of title 20 of the United States Code. The remaining information must be released.

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,



Misty Haberer Barham
Assistant Attorney General
Open Records Division

MHB/eeg

Ref: ID# 406386

Enc. Submitted documents

c: Requestor
(w/o enclosures)