



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 3, 2011

Mr. John-Peter Lund
For the Edinburg Consolidated Independent School System
O'Hanlon, McCollum & Demerath
808 West Avenue
Austin, Texas 78701

OR2011-14274

Dear Mr Lund:

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# 431965.

The Edinburg Independent School District (the "district"), which you represent, received a request for a named district employee's high school and college transcripts. You claim portions of the requested information are excepted from disclosure under section 552.102(b) of the Government Code and the Family Educational Rights and Privacy Act ("FERPA"), section 1232g of title 20 of the United States Code. We have considered your arguments 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).

Initially, we note the requestor questions the timeliness of the request for a ruling the district submitted to this office in response to the present request for information. Section 552.301 of the Government Code describes the procedural obligations placed on a governmental body that receives a written request for information it wishes to withhold. Pursuant to section 552.301(b) of the Government Code, the governmental body must request a ruling from this office and state the exceptions that apply within ten-business-days after receiving the request. *See id.* § 552.301(b). In this instance, the requestor contends the district's request for a ruling was submitted to this office one day after the applicable ten-business-day deadline. The district states it received the request for information on July 19, 2011. We

note this office does not count the date a request for information is received for purposes of calculating a governmental body's deadlines under the Act. Accordingly, the district's ten-business-day deadline to request a ruling was August 2, 2011. We note the district's request for a ruling was received by this office on August 2, 2011. Therefore, we find the district complied with section 552.301(b) in requesting a ruling from this office in response to the request for information.

You assert the requested high school and college transcripts of the employee at issue are protected from disclosure under FERPA. You explain that the employee at issue is a former student of the district. The United States Department of Education Family Policy Compliance Office (the "DOE") has informed this office that FERPA does not permit state and local educational authorities 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.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"). We note that FERPA contains provisions that govern access to education records that were transferred by an educational agency or institution to a third party. Because our office is prohibited from reviewing education records to determine the applicability of FERPA, we will not address the applicability of FERPA to the requested transcripts. Such determinations under FERPA must be made by the educational authorities from which the education records were obtained. Accordingly, the district should contact the educational authorities from which the transcripts were obtained and the DOE regarding the applicability of FERPA to these transcripts. To the extent the transcripts are not governed by FERPA, we will address your claim under section 552.102(b) of the Government Code for the submitted information.

Section 552.102(b) of the Government Code excepts from disclosure all information from higher education transcripts of professional public school employees other than the employee's name, the courses taken, and the degree obtained. Gov't Code § 552.102(b); Open Records Decision No. 526 (1989). Upon review, with the exception of the employee's name, the courses taken, and the degree obtained, which must be released, the district must withhold the remaining portions of the submitted college transcript under section 552.102(b) of the Government Code.

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.

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

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,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/agn

Ref: ID# 431965

Enc. Submitted documents

c: Requestor
(w/o enclosures)