



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 10, 2011

Mr. S. Anthony Safi  
Attorney for the El Paso Independent School District  
Mounce, Green, Myers, Safi, Paxson & Galatzan  
P.O. Box 1977  
El Paso, Texas 79999-1977

OR2011-16629

Dear Mr. Safi:

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# 435824 (ORR# 2011-308).

The El Paso Independent School District (the "district"), which you represent, received a request for a specified investigation file pertaining to a named individual. You state you will withhold student-identifying information from the requested documents pursuant to the Family Educational Rights and Privacy Act ("FERPA"), section 1232g of title 20 of the United States Code.<sup>1</sup> You state the district is releasing some of the requested information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.135 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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

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<sup>1</sup>The 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. 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>.

Code § 552.101. Section 552.101 of the Government Code encompasses information made confidential by other statutes, including section 261.201(a) 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). You contend the submitted information is confidential pursuant to section 261.201 of the Family Code because the information relates to a report of alleged or suspected child abuse subject to chapter 261. *See id.* § 261.001(1), (4) (defining “abuse” for the purposes of chapter 261 of the Family Code); *see also 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). We note the district is not an agency authorized to conduct an investigation under chapter 261. *See id.* §§ 261.103 (listing agencies that may conduct child abuse investigations), .406. However, we find a portion of the submitted information consists of a report of alleged child abuse made to the Child Protective Services Division of the Texas Department of Family and Protective Services. Upon review, therefore, we find this information, which we have marked, is confidential pursuant to section 261.201(a) of the Family Code. Accordingly, the district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. However, we find you have failed to demonstrate how any portion of the remaining information is confidential pursuant to chapter 261 of the Family Code, and the district may not withhold it under section 552.101 of the Government Code on that basis.

You claim some of the remaining information is excepted from disclosure by section 552.135 of the Government Code, which provides, in part:

(a) “Informer” means a student or former student or an employee or former employee of a school district who has furnished a report of another person’s or persons’ possible violation of criminal, civil, or regulatory law to the school district or the proper regulatory enforcement authority.

(b) An informer's name or information that would substantially reveal the identity of an informer is excepted from [required public disclosure].

Gov't Code § 552.135(a), (b). We note the legislature limited the protection of section 552.135 to the identity of a person who reports a possible violation of civil, criminal, or regulatory law. Thus, section 552.135 protects the identity of an informer but does not protect witness information or statements. You have not demonstrated how any portion of the remaining information identifies an informer who reported a possible violation of civil, criminal, or regulatory law. We therefore conclude the district may not withhold any of the remaining information under section 552.135 of the Government Code.

In summary, the district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family 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](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,



Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/agn

Ref: ID# 435824

Enc. Submitted documents

c: Requestor  
(w/o enclosures)