



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 29, 2012

Mr. Wayne D. Haglund
Haglund Law Firm, PC
For the Broaddus Independent School District
P.O. Box 713
Lufkin, Texas 75902-0713

OR2012-08156

Dear Mr. Haglund:

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# 454863.

The Broaddus Independent School District (the "district"), which you represent, received a request for the requestor's employment contract, personnel file, allegations resulting in the requestor's placement on administrative leave, and information pertaining to school board policy. You state the district is withholding certain 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.¹ You also state you have released some information to the requestor. You claim the submitted information is excepted from

¹The 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>. Furthermore, although you raise section 552.107 of the Government Code for the information you state is subject to FERPA, we note you have not submitted this information for our review. Accordingly, we do not address this exception.

disclosure under section 552.135 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.135 of the Government Code provides the following:

(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 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. 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. *See id.* § 552.301(e)(1)(A). Additionally, individuals who provide information in the course of an investigation, but do not make the initial report are not informants for purposes of section 552.135 of the Government Code.

In this instance, you claim the submitted information reveals the identity of an informer who reported possible violations of section 247.2 of title 19 of the Texas Administrative Code. *See* Educ. Code § 21.041(b) (TEA shall propose rules providing for disciplinary proceedings); 19 T.A.C. § 247.2 (Code of Ethics and Standard Practices for Texas Educators). Based on this representation and our review of the information at issue, we conclude the district must withhold the identity of the employee who reported the possible violations, which we have marked, under section 552.135 of the Government Code. However, we find the district has failed to demonstrate how the remaining information at issue reveals the identities of individuals who reported another person's possible violation of criminal, civil, or regulatory law and, thus, has not demonstrated the remaining information reveals the identity of an informer for the purposes of section 552.135. Therefore, the district may not withhold any portion of the remaining information under section 552.135 of the Government Code. As you raise no other exceptions to disclosure, the district must release the remaining submitted information.

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,

A handwritten signature in black ink that reads "Cynthia G. Tynan". The signature is written in a cursive, slightly slanted style.

Cynthia G. Tynan
Assistant Attorney General
Open Records Division

CGT/em

Ref: ID# 454883

Enc. Submitted documents

c: Requestor
(w/o enclosures)