



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 20, 2013

Ms. Haley Turner
Counsel for Georgetown Independent School District
Walsh, Anderson, Gallegos, Green and Treviño, P.C.
P.O. Box 2156
Austin, Texas 78768

OR2013-20238

Dear Ms. Turner:

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# 507080.

The Georgetown Independent School District (the "district"), which you represent, received a request for six categories of information regarding drug searches. You state the district is releasing some of the information. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

Initially, we note the United States Department of Education Family Policy Compliance Office (the "DOE") has informed this office that the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g, does not permit state and local educational authorities to disclose to this office, without parental consent or an adult student's consent, unredacted, personally identifiable information contained in education records for the purpose of our

¹We assume 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.

review in the open records ruling process under the Act.² 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”). In this instance, the submitted information consist of an unredacted education record. Because our office is prohibited from reviewing an education record to determine the applicability of FERPA, we will not address FERPA with respect to the submitted video recording. *See* 20 U.S.C. § 1232g(a)(1)(A). Such determinations under FERPA must be made by the educational authority in possession of the education record. We will, however, consider your argument against disclosure of 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 Code § 552.101. This exception encompasses information made confidential by other statutes, including section 418.182 of the Texas Homeland Security Act (the “HSA”), chapter 418 of the Government Code. Section 418.182 provides, in relevant part:

(a) [I]nformation . . . in the possession of a governmental entity that relates to the specifications, operating procedures, or location of a security system used to protect public or private property from an act of terrorism or related criminal activity is confidential.

Id. § 418.182(a). The fact that information may be related to a security system does not make such information *per se* confidential under section 418.182. *See* Open Records Decision No. 649 at 3 (1996) (language of confidentiality provision controls scope of its protection). Furthermore, the mere recitation by a governmental body of a statute’s key terms is not sufficient to demonstrate the applicability of a claimed provision. As with any exception to disclosure, a governmental body asserting section 418.182 must adequately explain how the responsive records fall within the scope of the statute. *See* Gov’t Code § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

You state the submitted video recordings reveal the locations, coverage, and condition of security surveillance cameras located throughout district campuses. You further state the surveillance cameras are part of the security system used to protect the district campuses from acts of terrorism or related criminal activity. Upon review, we find the submitted surveillance video recordings relate to the location of a security system used to protect public or private property from an act of terrorism or related criminal activity. *See Tex. Dep’t of Pub. Safety v. Abbott*, 310 S.W.3d 670 (Tex. App.—Austin 2010, no pet.) (finding confidential under section 418.182 of the HSA video recording containing images recorded

²A 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>.

by security cameras in Texas Capitol hallway because specifications of security system included cameras' capabilities and video recording demonstrated those capabilities through characteristics, quality, and clarity of images recorded). Therefore, the district must withhold the requested video recordings under section 552.101 of the Government Code in conjunction with section 418.182 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.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Britni Fabian
Assistant Attorney General
Open Records Division

BF/tch

Ref: ID# 507080

Enc. Submitted documents

c: Requestor
(w/o enclosures)