



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 21, 2015

Ms. Leticia D. McGowan
School Attorney
Dallas Independent School District
3700 Ross Avenue, Box 74
Dallas, Texas 75204

OR2015-17394

Dear Ms. McGowan:

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# 576377 (ORR# 14186).

The Dallas Independent School District (the "district") received a request for seven categories of information relating to the requestor's client. The district states it will release some of the requested information. The district claims the submitted information is excepted from disclosure under sections 552.101 and 552.135 of the Government Code. We have considered the exceptions the district claims and reviewed the submitted information.

Initially, we note the United States Department of Education Family Policy Compliance Office has informed this office the Family Educational Rights and Privacy Act ("FERPA"), section 1232g of title 20 of the United States Code, 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"); *see also* Open Records Decision No. 224 (1979) (student's handwritten comments protected under

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>.

FERPA because they would make identity of student easily traceable through handwriting, style of expression, or particular incidents related in the comments). The district has submitted unredacted education records for our review. Because our office is prohibited from reviewing these education records to determine whether appropriate redactions under FERPA have been made, we will not address the applicability of FERPA to any of the submitted records. *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 records. However, we will consider the district's arguments against disclosure of the submitted information.

Next, we note the submitted information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2015-12690 (2015). In Open Records Letter No. 2015-12690, we determined the district must withhold certain information under section 552.135 of the Government Code, but must release the remaining information. We have no indication the law, facts, or circumstances on which the prior ruling was based have changed. Accordingly, the district must continue to rely on Open Records Letter No. 2015-12690 as a previous determination and withhold or release the submitted information in accordance with that ruling.² *See* Open Records Decision No. 673 at 6-7 (2001) (discussing criteria for first type of previous determination).

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,



David L. Wheelus
Assistant Attorney General
Open Records Division

DLW/bhf

²As our determination is dispositive, we need not address the district's arguments against disclosure.

Ref: ID# 576377

Enc. Submitted documents

c: Requestor
(w/o enclosures)