



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 27, 2017

Mr. Miguel Salinas
Staff Attorney
Brownsville Independent School District
1900 Price Road, Suite 302
Brownsville, Texas 78521-2417

OR2017-06217

Dear Mr. Salinas:

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# 650250 (Brownsville ISD No. 509).

The Brownsville Independent School District (the "district") received a request for specified e-mails and complaints pertaining to a specified district board member. You state you have released some information. You claim the submitted information is confidential pursuant to the Family Educational Rights and Privacy Act ("FERPA"), section 1232g of title 20 of the United States Code. We have considered your argument and reviewed the submitted information.

The United States Department of Education Family Policy Compliance Office has informed this office 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

¹A copy of this letter may be found on the Office of the Attorney General's website at <https://www.texasattorneygeneral.gov/files/og/20060725usdoe.pdf>.


disclosed. *See* 34 C.F.R. § 99.3 (defining “personally identifiable information”). You assert FERPA applies to portions of the submitted documents. Because our office is prohibited from reviewing records to determine whether appropriate redactions under FERPA have been made, we do not address the applicability of FERPA. *See* 20 U.S.C. § 1232g(a)(1)(A). Such determinations under FERPA must be made by the district. However, to the extent the submitted information is not subject to FERPA we will consider the applicability of section 552.137 to the submitted information.²

Section 552.137 of the Government Code exempts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body,” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). Gov’t Code § 552.137(a)-(c). The e-mail addresses we have marked are not of the types specifically excluded by section 552.137(c). *See id.* § 552.137(c). Accordingly, the district must withhold the e-mail addresses we have marked under section 552.137 of the Government Code unless the owners of the addresses affirmatively consent to their release. The district must release the remaining 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.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,



Matthew Taylor
Assistant Attorney General
Open Records Division

MHT/bw

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Ref: ID# 650250

Enc. Submitted documents

c: Requestor
(w/o enclosures)