



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 19, 2017

Ms. Annabel Canchola
Counsel for the Stamford Independent School District
Powell & Leon, LLP
115 Wild Basin Road, Suite 106
Austin, Texas 78746

OR2017-11009

Dear Ms. Canchola:

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# 658538.

The Stamford Independent School District (the "district"), which you represent, received a request for attendance and education records involving the requestor's children and all communications involving two named individuals and any district employee during a specified time frame. You claim the submitted information is excepted from disclosure under sections 552.107 and 552.114 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

We understand you have redacted information you claim is protected by the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g. The United States District of Education Family Policy Compliance Office has informed this office that FERPA does not permit state and local educational authorities to disclose to this office, without parental consent, unredacted, personally identifiable information contained in education records for the purpose of our review in the open records ruling process under the Act.² We note a parent has a right of access to his own child's education records and FERPA prevails

¹We note although you raise section 552.026 of the Government Code as an exception to disclosure, this section is not an exception to public disclosure under the Act. Rather, section 552.026 provides the Act does not require the release of information contained in education records except in conformity with the Family Educational Rights and Privacy Act of 1974. Gov't Code § 552.026.

²A copy of this letter may be found on the Office of the Attorney General's website: <https://www.texasattorneygeneral.gov/files/og/20060725usdoe.pdf>.

over inconsistent provisions of state law. *See Equal Employment Opportunity Comm'n v. City of Orange, Tex.*, 905 F. Supp. 381, 382 (E.D. Tex. 1995); 20 U.S.C. § 1232g(a)(1)(A); 34 C.F.R. § 99.3; Open Records Decision No. 431 (1985) (information subject to right of access under FERPA may not be withheld pursuant to statutory predecessor to section 552.103 of the Government Code). Such determinations under FERPA must be made by the district, so we will not address the applicability of FERPA to this information. Likewise, we do not address your argument under section 552.114 of the Government Code. *See Gov't Code* §§ 552.026 (incorporating FERPA into the Act), .114 (excepting from disclosure "student records"); Open Records Decision No. 539 (1990) (determining the same analysis applies under section 552.114 of the Government Code and FERPA). However, we will consider your other argument against disclosure of the submitted information.

Section 552.107(2) of the Government Code provides information is excepted from disclosure if "a court by order has prohibited disclosure of the information." Gov't Code § 552.107(2). You have submitted copies of a Final Judgement and a Temporary Order that were issued by the District Court of the 300th Judicial District in Brazoria County. However, neither this Final Judgement nor this Temporary Order prohibits the district from releasing any of the requested information to the requestor pursuant to the Act. Thus, we conclude the district has not established a court has prohibited disclosure of any of the submitted information to the requestor. Therefore, we find the district may not withhold any of the submitted information from the requestor under section 552.107(2) of the Government Code. As you raise no further exceptions to disclosure, the district must release the 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.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,



Tim Neal
Assistant Attorney General
Open Records Division

TN/nmd

Ref: ID# 658538

Enc. Submitted documents

c: Requestor
(w/o enclosures)