



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 27, 2017

Ms. Laura Rodriguez McLean
Counsel for the Canyon Independent School District
Walsh, Gallegos, Treviño, Russo & Kyle P.C.
P.O. Box 168046
Irving, Texas 75016

OR2017-14273

Dear Ms. McLean:

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# 663728.

The Canyon Independent School District (the "district"), which you represent, received a request for information pertaining to a specified complaint and a specified open records request, including correspondence between specified parties. You state the district will redact information pursuant to the Family Educational Rights and Privacy Act ("FERPA"), section 1232g of title 20 of the United States Code.¹ You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code.

¹ The United States Department of Education Family Policy Compliance Office (the "DOE") 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. The DOE has determined that FERPA determinations must be made by the educational authority in possession of the education records. We have posted a copy of the letter from the DOE to this office on the Attorney General's website: <https://www.texasattorneygeneral.gov/files/og/20060725usdoe.pdf>.

We have considered the exceptions you claim and reviewed the submitted representative sample of information.²

Initially, you indicate some of the submitted information is not responsive to the present request. This ruling does not address the public availability of the non-responsive information and the district need not release it in response to this request.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 552.101. This office has repeatedly held that the transfer of confidential information between governmental agencies does not destroy the confidentiality of that information. *See* Attorney General Opinions H-917 (1976), H-836 (1974); Open Records Decision Nos. 561 (1990), 414 (1984), 388 (1983), 272 (1981), 183 (1978). These opinions recognize the need to maintain an unrestricted flow of information between state agencies. In Open Records Decision No. 561, we considered whether the same rule applied regarding information deemed confidential by a federal agency. In that decision, we noted the general rule that section 552 of title 5 of the United States Code, the federal Freedom of Information Act (“FOIA”), applies only to federal agencies and does not apply to records held by state agencies. ORD 561 at 6. Further, we stated information is not confidential when in the hands of a Texas agency simply because the same information is confidential in the hands of a federal agency. *Id.* However, in the interests of comity between state and federal authorities and to ensure the flow of information from federal agencies to Texas governmental bodies, we concluded, “when information in the possession of a federal agency is ‘deemed confidential’ by federal law, such confidentiality is not destroyed by the sharing of the information with a governmental body in Texas. In such an instance, [section 552.101] requires a local government to respect the confidentiality imposed on the information by federal law.” *Id.* at 7.

You state, and have provided a representation from the United States Department of Justice (the “DOJ”) supporting, the submitted responsive information relates to a pending investigation. The DOJ states its Disability Rights Section is currently conducting an investigation of the district’s policies and practices under Title II of the Americans with Disabilities Act. Further, the DOJ states release of the submitted responsive information would impede its investigation and compromise its ability to evaluate whether civil rights violations occurred. Thus, we understand the DOJ considers the information at issue confidential under the provisions found in section 552(b)(7)(A) of title 5 of the United States Code. *See* 5 U.S.C. § 552(b)(7)(A) (agency may withhold information compiled for law enforcement purposes, but only to extent production of such law enforcement information

²We 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 those records contain substantially different types of information than that submitted to this office.

could reasonably be expected to interfere with enforcement proceedings). Therefore, we conclude the district must withhold the submitted responsive information under section 552.101 of the Government Code in conjunction with federal law.³

In summary, this ruling does not address the public availability of the non-responsive information and the district need not release it in response to this request. The district must withhold the submitted responsive information under section 552.101 of the Government Code in conjunction with federal law.

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,



Kieran Hillis
Assistant Attorney General
Open Records Division

KH/sb

Ref: ID# 663728

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³As our ruling is dispositive, we need not address your remaining argument against disclosure of the submitted information.