



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 13, 2017

Ms. Melissa Mozingo  
Counsel for Mount Vernon Independent School District  
Leasor Crass, P.C.  
302 West Broad  
Mansfield, Texas 76063

OR2017-15592

Dear Ms. Mozingo:

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# 666186.

The Mount Vernon Independent School District (the "district"), which you represent, received two requests from the same requestor for information pertaining to the superintendent, assistant superintendent, athletics directors, coaches, athletic departments, booster clubs, and specified accounts and expenditures. You state the district will redact some information pursuant to the Family Educational Rights and Privacy Act ("FERPA"), section 1232g of title 20 of the United States Code.<sup>1</sup> See Gov't Code §§ 552.026 (incorporating FERPA into the Act). You state the district will release some information. You claim the requested information is excepted from disclosure under

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<sup>1</sup>The United States Department of Education Family Policy Compliance Office (the "DOE") has informed this office 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 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>.

sections 552.101, 552.102, 552.107, and 552.117 of the Government Code.<sup>2</sup> We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the requested information may have been the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2017-06126 (2017). In that ruling, we determined the district: (1) may withhold certain information pursuant to rule 503 of the Texas Rules of Evidence; (2) must withhold certain information under section 552.102(a) of the Government Code; (3) must withhold certain information under section 552.117(a)(1) of the Government Code, to the extent the individuals whose information is at issue timely requested confidentiality under section 552.024 of the Government Code; (4) must withhold certain information under section 552.130 of the Government Code; (5) must withhold certain information under section 552.136 of the Government Code; (6) must withhold certain information under section 552.147(a-1) of the Government Code; and (7) must release the remaining information. We have no indication there has been any change in the law, facts, or circumstances on which the previous ruling was based. Accordingly, to the extent the requested information is identical to the information previously requested and ruled upon by this office, we conclude the district must rely on Open Records Letter No. 2017-06126 as a previous determination and withhold or release the identical information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

Next, we must address the district's procedural obligations under the Act. Section 552.301 of the Government Code prescribes the procedures a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. Pursuant to section 552.301(e), a governmental body that receives a request for information it wishes to withhold under an exception to disclosure must submit to this office within fifteen business days of receiving the request (1) written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. Gov't Code § 552.301(e). You have not submitted arguments explaining why the stated exceptions apply or a copy or representative sample of the remaining requested information. Consequently, we find the district failed to comply with the requirements of section 552.301(e) of the Government Code.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption

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<sup>2</sup>Although you raise section 552.024 of the Government Code, we note this section is not an exception to disclosure. Rather, this section permits a current or former official or employee of a governmental body to choose whether to allow public access to certain information relating to the current or former official or employee that is held by the employing governmental body. *See* Gov't Code § 552.024.

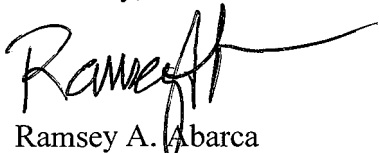
that the requested information is public and must be released. Information that is presumed public must be released unless a governmental body demonstrates a compelling reason to withhold the information to overcome this presumption. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S. W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ); *see also* Open Records Decision No. 630 (1994). Although you raise exceptions to disclosure, because you have not submitted the requested information for our review, we have no basis for finding any of the information excepted from disclosure. Thus, we have no choice but to order the remaining requested information released pursuant to section 552.302 of the Government Code.

In summary, to the extent the requested information is identical to the information previously requested and ruled upon by this office in Open Records Letter No. 2017-06126, the district must rely on that ruling as a previous determination and withhold or release the identical information in accordance with that ruling. To the extent the remaining requested information was not previously ruled on, the district must release it pursuant to section 552.302 of the Government Code. If you believe the information is confidential and may not lawfully be released, you must challenge this ruling in court pursuant to section 552.324 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](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,



Ramsey A. Abarca  
Assistant Attorney General  
Open Records Division

RAA/bw

Ref: ID# 666186

c: Requestor