



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 19, 2017

Ms. Haley Turner
Ms. D'Ann Lacey Bey
Counsel to Birdville Independent School District
Walsh, Gallegos, Trevino, Russo & Kyle, P.C.
P.O. Box 2156
Austin, Texas 78768

OR2017-16106

Dear Ms. Turner & Ms. Bey:

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# 666904.

The Birdville Independent School District (the "district"), which you represent, received a request for the personnel file of a named former employee and information pertaining to a specified investigation. You state you have released some information. You also state you have redacted information pursuant to the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g(a).¹ You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.108 of the Government Code states information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from required public disclosure "if release of the information would interfere with

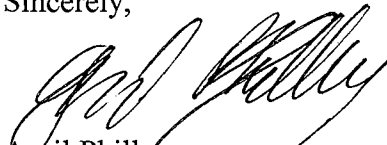
¹The United States Department of Education Family Policy Compliance Office (the "DOE") has informed this office FERPA does not permit state and local educational authorities to disclose to this office, without parental or an adult student's consent, unredacted, personally identifiable information contained in education records for the purpose of our review in the open records ruling process under the Act. The DOE has determined FERPA determinations must be made by the educational authority in possession of the educational records. We have posted a copy of the letter from the DOE on the Attorney General's website at <https://www.texasattorneygeneral.gov/files/og/20060725usdoe.pdf>.

the detection, investigation, or prosecution of crime.” Gov’t Code § 552.108(a)(1). Section 552.108 may be invoked by the proper custodian of information relating to an investigation or prosecution of criminal conduct. Open Records Decision No. 474 at 4-5 (1987). Where a non-law enforcement agency is in the custody of information that would otherwise qualify for exception under section 552.108 as information relating to the pending case of a law enforcement agency, the custodian of the records may withhold the information if it provides the attorney general with a demonstration that the information relates to the pending case and a representation from the law enforcement agency that it wishes to withhold the information. You state, and provide a representation stating, the North Richland Hills Police Department (the “department”) objects to the release of the submitted information because release of the information would interfere with the department’s ongoing criminal investigation. Therefore, based on this representation, the district may withhold the submitted information under section 552.108(a)(1) on behalf of the department. See *Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

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,



April Philley
Assistant Attorney General
Open Records Division

AP/sb

Ref: ID# 666904

Enc. Submitted documents

c: Requestor
(w/o enclosures)