



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 20, 2017

Ms. Paige C. Kyle
Counsel for Hondo Independent School District
Walsh Gallegos Treviño Russo & Kyle P.C.
One International Centre
100 Northeast Loop 410, Suite 900
San Antonio, Texas 78216

OR2017-21551

Dear Ms. Kyle:

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# 676249.

The Hondo Independent School District (the "district"), which you represent, received a request for information pertaining to a former district employee. The district states it has redacted student-identifying information from the submitted documents pursuant to the Family Educational Rights and Privacy Act ("FERPA"), section 1232g of title 20 of the United States Code.¹ You claim portions of the submitted information are excepted from disclosure under sections 552.101 and 552.102 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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

Initially, we note the requestor is an investigator with the Arizona Department of Education and asserts she has a right of access to the requested information under section 15-350 of the Arizona Revised Statutes. Section 15-350 authorizes the Arizona Department of Education to obtain certain information from a school or school district that employs a certified person alleged to have engaged in misconduct. *See* Ariz. Rev. Stat. § 15-350. The Act generally does not incorporate the confidentiality or access provisions of other states' statutes and regulations because those laws only govern the disclosure of information held by those states. *But see* Open Records Decision No. 561 at 6-7 (1990) (noting that if agency of federal government shares its information with Texas governmental entity, Texas entity must withhold information that federal agency determined to be confidential under federal law). The submitted information is maintained by the district, which is subject to the state laws of Texas. Thus, although section 15-350 of the Arizona Revised Statutes authorizes the requestor to obtain information from schools and school districts, this statute does not grant the requestor access to records of a Texas governmental body that are excepted from disclosure under the Act. Accordingly, we will address the district's argument against disclosure of the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information protected by other statutes, such as section 261.201 of the Family Code, which provides, in pertinent part:

(a) [T]he following information is confidential, is not subject to public release under [the Act], and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a); *see id.* §§ 101.003(a) (defining "child" for purposes of chapter 261), 261.001(1), (4) (defining "abuse" and "neglect" for purposes of chapter 261 of the Family Code). You state some of the submitted information is subject to section 261.201. We note the district is not an agency authorized to conduct an investigation under chapter 261 of the Family Code. *See id.* § 261.103 (listing agencies that may conduct child abuse investigations). You state some of the submitted information was used or developed in an investigation of alleged or suspected child abuse and neglect by Child

Protective Services. Further, portions of the information were used or developed in a child abuse investigation conduct by the Hondo Police Department. Thus, upon review, we find the information we marked was used or developed in an investigation of alleged or suspected child abuse or neglect under chapter 261. Further, we find portions of the remaining information consist of the identifying information of a person who reported alleged or suspected abuse or neglect to Child Protective Services. Therefore, the district must withhold the information we have marked under section 552.101 in conjunction with section 261.201. However, we find you have failed to demonstrate the remaining information at issue was used or developed in an investigation under chapter 261, or consists of a report of alleged or child suspected abuse or neglect under chapter 261. Accordingly, no portion of the remaining information may be withheld under section 552.101 in conjunction with section 261.201.

Section 552.101 of the Government Code also encompasses section 261.101 of the Family Code, which provides the identity of an individual making a report under chapter 261 is confidential. *See id.* § 261.101(d). As noted above, the district is not an agency authorized to conduct a chapter 261 investigation. *See id.* § 261.103. Upon review, we find none of the remaining information consists of the identifying information of an individual who made a report under chapter 261. Therefore, the district may not withhold the remaining information under section 552.101 in conjunction with section 261.101.

Section 552.102(a) excepts from disclosure “information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy[.]” Gov’t Code § 552.102(a). The Texas Supreme Court held section 552.102(a) excepts from disclosure the dates of birth of state employees in the payroll database of the *Texas Comptroller of Public Accounts*. *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex.*, 354 S.W.3d 336 (Tex. 2010). The district must withhold the information you marked under section 552.102(a) of the Government Code.

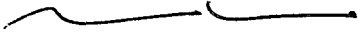
In summary, the district must withhold the information we marked under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. The district must withhold the information you marked under section 552.102(a) of the Government Code. The remaining information must be released.

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,



Melanie J. Villars
Assistant Attorney General
Open Records Division

MJV/eb

Ref: ID# 676249

Enc. Submitted documents

c: Requestor
(w/o enclosures)