



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 15, 2019

Mr. Brian S. Nelson
General Counsel
Corpus Christi Independent School District
P.O. Box 110
Corpus Christi, Texas 78403-0110

OR2019-01212

Dear Mr. Nelson:

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# 746393.

The Corpus Christi Independent School District (the "district") received a request for the requestor's personnel file and information regarding a specified investigation. The district states it released some information to the requestor. The district claims portions of the submitted information are excepted from disclosure under sections 552.101 and 552.139 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

Initially, we note the we note the United States Department of Education Family Policy Compliance Office has informed this office the Family Educational Rights and Privacy Act ("FERPA"), section 1232g of title 20 of the United States Code, 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.¹ Consequently, state and local educational authorities that receive a request for education records from a member of the public under the Act must not submit education records to this office in unredacted form, that is, in a form in which “personally identifiable information” is disclosed. *See* 34 C.F.R. § 99.3 (defining “personally identifiable information”); *see also* Open Records Decision No. 224 (1979) (student’s handwritten comments protected under FERPA because they would make identity of student easily traceable through handwriting, style of expression, or particular incidents related in the comments). The district submitted redacted education records for our review and asserts FERPA applies to portions of the submitted documents. Because our office is prohibited from reviewing these records to determine whether appropriate redactions under FERPA have been made, we will not address the applicability of FERPA to any of the submitted records. *See* 20 U.S.C. § 1232g(a)(1)(A). Such determinations under FERPA must be made by the district. Accordingly, we do not address the district’s argument under section 552.101 of the Government Code in conjunction with FERPA.

Section 552.139 of the Government Code provides, in relevant part:

(a) Information is excepted from [required public disclosure] if it is information that relates to computer network security, to restricted information under Section 2059.055 [of the Government Code], or to the design, operation, or defense of a computer network.

(b) The following is confidential:

(1) a computer network vulnerability report;

(2) any other assessment of the extent to which data processing operations, a computer, a computer program, network, system, or system interface, or software of a governmental body or of a contractor of a governmental body is vulnerable to unauthorized access or harm, including an assessment of the extent to which the governmental body’s or contractor’s electronically stored information containing sensitive or critical information is vulnerable to alteration, damage, erasure, or inappropriate use; [and]

...

¹A copy of this letter may be found on the Office of the Attorney General’s website at <https://www.texasattorneygeneral.gov/sites/default/files/files/divisions/open-government/20060725-USDOE-FERPA.pdf>.

(4) information directly arising from a governmental body's routine efforts to prevent, detect, investigate, or mitigate a commuter security incident, including information contained in or derived from an information security log.

Gov't Code § 552.139(a), (b)(1)-(2), (b)(4). Section 2059.055 of the Government Code provides, in relevant part:

(b) Network security information is confidential under this section if the information is:

(1) related to passwords, personal identification numbers, access codes, encryption, or other components of the security system of a governmental entity;

(2) collected, assembled, or maintained by or for a governmental entity to prevent, detect, or investigate criminal activity; or

(3) related to an assessment, made by or for a governmental entity or maintained by a governmental entity, of the vulnerability of a network to criminal activity.

Id. § 2059.055(b). The district states the information it marked consists of information regarding the district's computer network security that was reviewed and obtained pursuant to an investigation of the district's student database. The district argues release of the information at issue would allow access to the student database and compromise the district's computer network security. Based upon these representations and our review of the information at issue, we conclude the district must withhold the information it marked under section 552.139 of the Government Code.

In summary, this ruling does not address the applicability of FERPA to the submitted information. Should the district determine that all or portions of the submitted information consist of "education records" that must be withheld under FERPA, the district must dispose of that information in accordance with FERPA, rather than the Act. The district must withhold the information it marked under section 552.139 of the Government Code. The district must release the remaining 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,



James M. Graham
Assistant Attorney General
Open Records Division

JMG/som

Ref: ID# 746393

Enc. Submitted documents

c: Requestor
(w/o enclosures)