



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 22, 2019

Ms. Monica L. Perez
Counsel for the El Paso Independent School District
Mounce, Green, Myers, Safi, Paxson & Galatzan, P.C.
P.O. Box 1977
El Paso, Texas 79999-1977

OR2019-01761

Dear Ms. Perez:

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# 747088 (ORR# W001539-102218).

The El Paso Independent School District (the "district"), which you represent, received a request for the personnel records of a named employee. We understand the district is redacting some information pursuant to the Family Educational Rights and Privacy Act ("FERPA"), section 1232g of title 20 of the United States Code.¹ The district claims some of the submitted information is excepted from disclosure under section 552.135 of the

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 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/sites/default/files/files/divisions/open-government/20060725-USDOE-FERPA.pdf>.

Government Code. We have considered the claimed exception and reviewed the submitted information.

Initially, we note the district only submitted a portion of the requested personnel records. We assume, to the extent any additional responsive information existed when the district received the request for information, the district has released it to the requestor. If not, then the district must do so immediately. *See* Gov't Code §§ 552.006, .301, .302; Open Records Decision No. 664 (2000).

Section 552.135 of the Government Code provides, in part, the following:

- (a) "Informer" means a student or former student or an employee or former employee of a school district who has furnished a report of another person's or persons' possible violation of criminal, civil, or regulatory law to the school district or the proper regulatory enforcement authority.
- (b) An informer's name or information that would substantially reveal the identity of an informer is excepted from [required public disclosure].

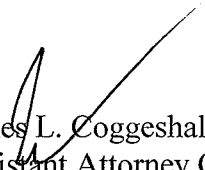
Gov't Code § 552.135(a)-(b). Because the legislature limited the protection of section 552.135 to the identity of a person who reports a possible violation of "law," a school district that seeks to withhold information under that exception must clearly identify to this office the specific civil, criminal, or regulatory law that is alleged to have been violated. *See* Gov't Code § 552.301(e)(1)(A). However, although section 552.135 protects an informer's identity, it does not generally encompass protection for witness statements. The district asserts the submitted information contains identifying information of employees who reported alleged violations of the Code of Ethics and Standard Practices for Texas Educators, section 247.2 of title 19 of the Texas Administrative Code. Upon review, we conclude the district must withhold the information we have marked under section 552.135 of the Government Code. Nonetheless, we find the district has not demonstrated any of the remaining information at issue identifies an informer for purposes of section 552.135. Therefore, the district may not withhold any of the remaining information on that basis. Accordingly, 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 L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/mo

Ref: ID# 747088

Enc. Submitted documents

c: Requestor
(w/o enclosures)