



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 4, 2019

Mr. Jay Youngblood
Counsel for Gladewater Independent School District
Powell & Leon, LLP
1001 E SE Loop 323, Suite 450
Tyler, Texas 75701

OR2019-03119

Dear Mr. Youngblood:

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# 749217.

The Gladewater Independent School District (the "district"), which you represent, received a request for five categories of information pertaining to the requestor's client, excluding any attorney-client communications.¹ You state some of the requested information has been redacted pursuant to the Family Educational Rights and Privacy Act ("FERPA"), section 1232g of title 20 of the United States Code.² You state the district has released some of the

¹We note the district received clarification regarding this request. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information); *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

² The United States Department of Education Family Policy Compliance Office (the "DOE") has informed this office that 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>.

requested information. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. You also state release of the submitted information may implicate the interests of the Texas Education Agency (“TEA”). *See* Gov’t Code § 552.304 (interested party may submit comments stating why information should or should not be released.) We have considered the exception you claim and reviewed 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.” *Id.* § 552.101. This exception encompasses section 21.062 of the Education Code, which provides, in part, the following:

(a) During an investigation by the [C]ommissioner [of Education (the “commissioner”)] for an alleged incident of misconduct, the commissioner may issue a subpoena to compel:

...

(2) the production, for inspection or copying, of relevant evidence that is located in this state.

...

(d) All information and materials subpoenaed or compiled in connection with an investigation described by Subsection (a) are confidential and not subject to disclosure under [the Act].

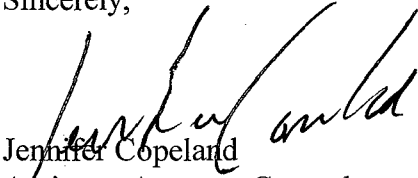
Educ. Code § 21.062(a)(2), (d). The district states the submitted information relates to an investigation of an educator by the commissioner for an alleged incident of misconduct. The district further states, and provides documentation showing, the information at issue was submitted to the TEA in response to a subpoena issued by the commissioner. Based on these representations, we agree the district must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 21.062(d) of the Education 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, 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,


Jennifer Copeland
Assistant Attorney General
Open Records Division

JC/som

Ref: ID# 749217

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)