



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 20, 2019

Ms. Katheryne Ellison  
Assistant General Counsel  
Houston Independent School District  
4400 West 18th Street  
Houston, Texas 77092-8501

OR2019-04787

Dear Ms. Ellison:

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# 750710 (ORR# S112718).

The Houston Independent School District (the "district") received a request for information related to a named former district employee, including her personnel file, any investigations of misconduct, and all documents sent to the Texas Education Agency (the "TEA") or the State Board for Educator Certification. The district states it is releasing some of the requested information. 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.<sup>1</sup> The district claims the

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<sup>1</sup>The 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/sites/default/files/files/divisions/open-government/20060725-USDOE-FERPA.pdf>.

submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception the district claims 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.” Gov’t Code § 552.101. This exception encompasses information other statutes make confidential, such as section 21.062 of the Education Code. Section 21.062 provides, in relevant part:

(a) During an investigation by 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].

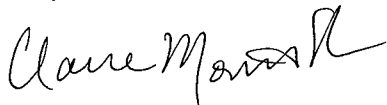
Educ. Code § 21.062(a)(2), (d); *see id.* §§ 5.001(3) (“Commissioner” means the commissioner of education), 21.001(1) (“Commissioner” includes a person designated by the commissioner). The district states the submitted information was subpoenaed or compiled in an investigation of an educator under section 21.062 of the Education Code. The district indicates the information was submitted to the Texas Education Agency in response to a subpoena issued by the commissioner. Based on the district’s representations and our review, 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](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,

A handwritten signature in cursive script, appearing to read "Claire Morris Sloan".

Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/gw

Ref: ID# 750710

c: Requestor