



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 5, 2019

Mr. Christopher St. James
Assistant General Counsel
Spring Independent School District
16717 Ella Boulevard
Houston, Texas 77090

OR2019-14847

Dear Mr. James:

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# 769286 (ORR# 856).

The Spring Independent School District (the "district") received a request for information pertaining to the requestor. The district states it 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 also states it will release some of the requested information, but claims the submitted information is excepted from disclosure under section 552.135 of the Government Code. We have considered the claimed exception 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

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,, 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>.

Code § 552.101. This section encompasses section 261.201(a) of the Family Code, which provides as follows:

[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). The district is not an agency authorized to conduct a chapter 261 investigation. *See id.* § 261.103 (listing agencies that may conduct child abuse investigations). However, we determine some of the submitted information was submitted to the Department of Family and Protective Services (“DFPS”). Therefore, we conclude this information, which we marked, was used or developed in an investigation of alleged or suspected child abuse or neglect under chapter 261. Consequently, the district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.² *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute).

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.

²As our ruling is dispositive, we do not address the arguments of the district to withhold this information.

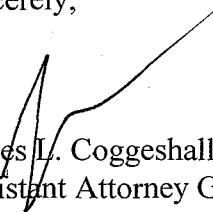
See Gov't Code § 552.301(e)(1)(A). However, although section 552.135 protects an informer's identity, it does not generally encompass protection for witness statements. Upon review, we find the district has not demonstrated any of the remaining information identifies an informer for purposes of section 552.135. Therefore, the district may not withhold any of the remaining information on that basis.

In summary, the district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family 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 L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/mo

Ref: ID# 769286

Enc. Submitted documents

c: Requestor
(w/o enclosures)