



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 18, 2019

Ms. Courtney R. Crosby
Public Information Assistant Coordinator
Dallas Independent School District
9400 North Central Expressway
Dallas, Texas 75231

OR2019-16472

Dear Ms. Crosby:

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# 771370 (Internal File No. R018118-032919).

The Dallas Independent School District (the "district") received a request for a specified investigation by the professional responsibility office. You state the district has redacted information pursuant to the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g(a).¹ You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.117, and 552.135 of the Government Code.² We have considered the exceptions 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." Gov't Code § 552.101. This section encompasses section 261.201 of the Family Code, which provides, in relevant part:

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 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. The DOE has determined FERPA determinations must be made by the educational authority in possession of the educational records. We have posted a copy of the letter from the DOE on the Attorney General's website at <https://www.texasattorneygeneral.gov/sites/default/files/files/divisions/open-government/20060725-USDOE-FERPA.pdf>.

²Although you do not raise section 552.117 of the Government Code in your brief, we understand the district to assert this exception based on your markings.

(a) [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 [chapter 261 of the Family Code] 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 [chapter 261 of the Family Code] or in providing services as a result of an investigation.

Fam. Code § 261.201(a); *see id.* §§ 101.003(a) (defining “child” for purposes of chapter 261), 261.001(1), (4) (defining “abuse” and “neglect” for purposes of chapter 261 of the Family Code). The district states some of the submitted information was used or developed in an investigation of alleged or suspected child abuse or neglect. We note the district is not an agency authorized to conduct an investigation under chapter 261 of the Family Code. *See id.* § 261.103 (listing agencies that may conduct child abuse investigations). The district claims the information it marked was prepared or used by the Department of Family and Protective Services (“DFPS”) to investigate the child abuse allegation claims. Upon review, we find the information you marked was used or developed in an investigation of alleged or suspected child abuse or neglect under chapter 261 and must be withheld under section 552.101 of the Government Code in conjunction with section 261.201(a)(2) of the Family Code. Further, we find some of the remaining information, which we have marked, consists of the identifying information of a person who reported alleged or suspected abuse or neglect to Child Protective Services. This information is within the scope of section 261.201(a)(1). Therefore, the district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 261.201(a)(1) of the Family Code.³ The district must release the remaining information.⁴

³As our ruling is dispositive, we need not address the district’s remaining arguments against disclosure of this information.

⁴We note the requestor has a special right of access to some of the information being released that may otherwise be protected under section 552.117(a)(1) of the Government Code. *See Gov’t Code* § 552.023(b) (governmental body may not deny access to person to whom information relates or person’s agent on grounds that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). If the district receives another request from a different requestor, section 552.024(c)(2) of the Government Code authorizes a governmental body to redact information protected by section 552.117(a)(1) of the Government Code without the necessity of requesting a decision under the Act if the current or former employee or official to whom the information pertains timely chooses not to allow public access to the information. *See Gov’t Code* § 552.024(c)(2). If a governmental body redacts such information, then it must notify the requestor in accordance with subsections 552.024(c-1) and (c-2). *See id.* § 552.024(c-1)-(c-2).

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,

A handwritten signature in black ink, appearing to read "Erin Groff". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Erin Groff
Assistant Attorney General
Open Records Division

EMG/gw

Ref: ID# 771370

Enc. Submitted documents

c: Requestor
(w/o enclosures)