



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 3, 2019

Mr. Matthew M. Coleman  
Counsel for the Mission Consolidated Independent School District  
Eichelbaum Wardell Hansen Powell & Mehl, P.C.  
4201 West Parmer Lane, Suite A-100  
Austin, Texas 78727

OR2019-24592

Dear Mr. Coleman:

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# 782654.

The Mission Consolidated Independent School District (the "district"), which you represent, received a request for the requestor's personnel file. You state the district is withholding student-identifying information pursuant to the Family Educational Rights and Privacy Act ("FERPA"), section 1232g of title 20 of the United States Code.<sup>1</sup> You state you have released some information. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

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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>.

Section 552.101 of the Government Code exempts from public disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This section encompasses information protected by section 261.201 of the Family Code, which provides, in part, as follows:

(a) [T]he following information is confidential, is not subject to public release under Chapter 552, Government Code, 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:

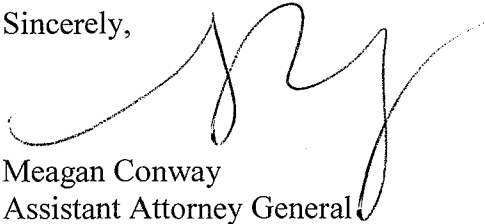
- (1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and
- (2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a); *see also id.* §§ 101.003(a) (defining “child” for purposes of this section as person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes), 261.001(1) (defining “abuse” for purposes of Family Code ch. 261). You contend the submitted information is confidential under section 261.201. 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). You state the submitted information contains copies of reports made to the Texas Department of Family and Protective Services and related e-mails. Upon review, we find some of the submitted information, which we have marked, consists of reports of alleged or suspected abuse or neglect made to the Texas Department of Family and Protective Services or identifying information of the person who made the report. We find this information is within the scope of section 261.201(a)(1) of the Family Code. 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. However, we find you have not established the remaining information consists of a report of alleged or suspected child abuse or neglect made under chapter 261 of the Family Code, information used or developed in an investigation under chapter 261, or identifying information of the person who made a report under chapter 261. Therefore, we conclude the district may not withhold any of the remaining information under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. The district must instead 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Meagan Conway  
Assistant Attorney General  
Open Records Division

MC/gw

Ref: ID# 782654

Enc. Submitted documents

c: Requestor  
(w/o enclosures)