



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 3, 2020

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

OR2020-03216

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# 809582 (DISD File No. R018953-110519).

The Dallas Independent School District (the "district") received a request for records pertaining to the requestor during a specified time period. The district states it has released some information to the requestor. 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 submitted information is excepted from disclosure under sections 552.101 and 552.135 of the Government Code. We have considered the exceptions 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

---

<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>.

Code § 552.101. This section encompasses section 261.201 of the Family Code, which provides, in relevant part:

(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 the submitted information is exempt from disclosure pursuant to 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). However, some of the information at issue demonstrates it was provided to the Department of Family and Protective Services (“DFPS”) to investigate the child abuse allegation at issue. Upon review, with the exception of the Suspected Child Abuse Reporting Form, we find the submitted information 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.<sup>2</sup> However, we find the Suspected Child Abuse Reporting Form relates to an administrative investigation by the district. Further, we are unable to determine whether the Suspected Child Abuse Reporting Form was produced to DFPS or the district’s police department (the “department”). Accordingly, we rule in the alternative. To the extent the Suspected Child Abuse Reporting Form was produced to DFPS or the department, we find this information consists of information used or developed in an investigation of alleged or suspected child abuse 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.<sup>3</sup>

In the event the Suspected Child Abuse Reporting Form was not produced to DFPS or the department, then this information does not consist of information used or developed in an

---

<sup>2</sup> As our ruling is dispositive, we need not address the district’s remaining argument against disclosure of this information.

<sup>3</sup> As our ruling is dispositive in this instance, we need not address the district’s remaining argument against disclosure of this information.

investigation of alleged or suspected child abuse under chapter 261 and may not be withheld on the basis of section 261.201(a)(2). In this instance, however, we find portions of the reporting form, which we marked, consist of the identifying information of a person who reported alleged or suspected abuse or neglect to DFPS. This information is within the scope of section 261.201(a)(1). Therefore, the district must withhold the information we marked in the Suspected Child Abuse Reporting Form under section 552.101 of the Government Code in conjunction with section 261.201(a)(1) of the Family Code.<sup>4</sup> However, none of the remaining information is confidential under section 261.201 and the district may not withhold it under section 552.101 on that basis.

Section 552.135 of the Government Code provides, in relevant part, the following:

(a) “Informer” means a student or a former student or an employee or former employee of a school district who has furnished a report of another person’s 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].

(c) Subsection (b) does not apply:

(1) if the informer is a student or former student, and the student or former student, or the legal guardian, or spouse of the student or former student consents to disclosure of the student’s or former student’s name; or

(2) if the informer is an employee or former employee who consents to disclosure of the employee’s or former employee’s name; or

(3) if the informer planned, initiated, or participated in the possible violation.

Gov’t Code § 552.135(a)-(c). 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. *See id.* § 552.301(e)(1)(A). Additionally, individuals who provide information in the course of an investigation, but do not report a possible violation of law are not informants for purposes of section 552.135. The district claims the remaining information contains personally identifiable information of an informer who reported a possible violation of criminal law. Upon review, we find no portion of the remaining information contains the identity of an informer for section 552.135 purposes. Therefore, we conclude

---

<sup>4</sup> As our ruling is dispositive, we need not address the district’s remaining argument against disclosure of this information.

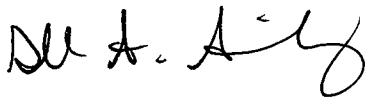
the district may not withhold any of the remaining information on the basis of section 552.135 of the Government Code.

In summary, with the exception of the Suspected Child Abuse Reporting Form, the district must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 261.201(a)(2) of the Family Code. If the Suspected Child Abuse Reporting Form was produced to DFPS or the department, then the district must withhold it under section 552.101 of the Government Code in conjunction with section 261.201(a)(2) of the Family Code. If the Suspected Child Abuse Reporting Form was not produced to DFPS or the department, then the district must withhold the information we marked under section 552.101 of the Government Code in conjunction with section 261.201(a)(1) of the Family Code. The district must release any 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,



Gerald Arismendez  
Assistant Attorney General  
Open Records Division

GAA/jxd

Ref: ID# 809582

Enc. Submitted documents

c: Requestor  
(w/o enclosures)