



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 15, 2020

Ms. Kristi Godden
Counsel for Lancaster Independent School District
O'Hanlon, Demerath & Castillo
808 West Avenue
Austin, Texas 78701

OR2020-13827

Dear Ms. Godden:

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# 828657 (LISD# 20-001).

The Lancaster Independent School District (the "district"), which you represent, received a request for information pertaining to the requestor's client, information pertaining to allegations made on a specified date, and specified district policies. You state you redacted student-identifying information pursuant to the Family Educational Rights and Privacy Act ("FERPA"), section 1232g of title 20 of the United States Code.¹ You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. Additionally, you state the district notified the Texas Education Agency (the "TEA") of the request and of its opportunity to submit comments to this office as to why the information should not be released.² *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the exception 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." *Id.*

¹ 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/files/og/20060725usdoe.pdf>.

² As of the date of this letter, we have not received comments from the TEA.
Post Office Box 12548, Austin, Texas 78711-2548 • (512) 463-2100 • www.texasattorneygeneral.gov

§ 552.101. Section 552.101 encompasses information made confidential by other statutes, 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). You state the submitted information was subpoenaed in an investigation of an educator under section 21.062 of the Education Code. You inform us, and provide documentation showing, the information was submitted to the TEA in response to a subpoena issued by the commissioner. Based upon your 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 <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 Hunter
Assistant Attorney General
Open Records Division

MH/jlbm

Ms. Kristi Godden - Page 3

Ref: ID# 828657

Enc. Submitted documents

c: Requestor
(w/o enclosures)