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ATTORNEY GENERAL OF TEXAS

January 26, 2022

Mr. Scott W. Thomas
Counsel for the Arlington Independent School District
Eichelbaum Wardell Hansen Powell & Munoz, P.C.
5801 Tennyson Parkway, Suite 360
Plano, Texas 75024

OR2022-02168

Dear Mr. Thomas:

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# 927907 (Ref. No. PIA 135).

The Arlington Independent School District (the "district"), which you represent, received a request for personnel and investigation files regarding the requestor's client. You state the district has released some of the requested information. You also state the district has redacted certain information pursuant to the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g(a).¹ You claim the submitted information is subject to a previous ruling from our office. Alternatively, you claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. Additionally, you state the district notified interested individuals of the request for information and of their right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.304 (providing that interested party may submit written comments regarding why information should or should not be released). We have considered the submitted arguments and reviewed the submitted representative sample of information.²

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 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>.

² We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records
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You inform us the submitted information was the subject of previous a request for information, as a result of which this office issued Open Records Letter No. 2021-36710 (2021). We have no indication there has been any change in the law, facts, or circumstances on which the previous ruling was based. Accordingly, we conclude the district must rely on Open Records Letter No. 2021-36710 as a previous determination and withhold or release the submitted information in accordance with that ruling.³ See Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

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,

Joseph Hoggatt
Assistant Attorney General
Open Records Division

JWH/be

Ref: ID# 927907

Enc. Submitted documents

c: Requestor
(w/o enclosures)

letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

³ As we are able to make this determination, we need not address your remaining arguments against disclosure of the submitted information.