



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 22, 2022

Ms. Karen Fitzgerald  
Executive Director of Communications & Engagement  
Carroll Independent School District  
2400 North Carroll Avenue  
Southlake, Texas 75028

OR2022-05194

Dear Ms. Fitzgerald:

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# 930643.

The Carroll Independent School District (the "district") received four requests from different requestors for certain information pertaining to a specified investigation. You claim the submitted information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the United States Department of Education Family Policy Compliance Office has informed this office the Family Educational Rights and Privacy Act ("FERPA"), section 1232g of title 20 of the United States Code, 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.<sup>1</sup> Consequently, state and local educational authorities that receive a request for education records from a member of the public under the Act must not submit education records to this office in unredacted form, that is, in a form in which "personally identifiable information" is disclosed. *See* 34 C.F.R. § 99.3 (defining "personally identifiable information"). In this

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<sup>1</sup> A copy of this letter may be found on the Office of the Attorney General's website at <https://www.texasattorneygeneral.gov/sites/default/files/files/divisions/open-government/20060725-USDOE-FERPA.pdf>.

instance, the information the district has submitted for our review may constitute education records. Because our office is prohibited from reviewing these education records, we will not address the applicability of FERPA to any of the submitted records. *See* 20 U.S.C. § 1232g(a)(1)(A). Such determinations under FERPA must be made by the educational authority in possession of the education records. However, we will consider the district's argument against disclosure of the submitted information.

Next, we must address the district's obligations under the Act. Section 552.301 of the Government Code prescribes the procedures that a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. *See* Gov't Code § 552.301. Pursuant to section 552.301(e), a governmental body is required to submit to this office within fifteen business days of receiving a written request for information (1) written comments stating the reasons why the claimed exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. *See id.* § 552.301(e). The district states it received the first and second requests on November 18, 2021. The district further states it received the third request on November 22, 2021, and the fourth request on November 24, 2021. The district informs us it was closed for business from November 22, 2021, through November 26, 2021, and December 20, 2021, through December 31, 2021. This office does not count the date the request was received or holidays for the purpose of calculating a governmental body's deadlines under the Act. Thus, the district is deemed to have received the third and fourth requests on November 29, 2021. Therefore, the district's fifteen-business-day deadlines with respect to the first and second requests was December 16, 2021. The district's fifteen-business-day deadline with respect to the third and fourth requests was January 3, 2022. However, the district provided the information required by section 552.301(e) of the Government Code by electronic submission on January 5, 2022. *See id.* § 552.309(a) (requirement to submit information within specified time period under the Act is met in timely fashion if it is submitted through attorney general's designated electronic filing system within that period). Consequently, we conclude the district failed to comply with the procedural requirement mandated by section 552.301(e) of the Government Code.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ). The district claims section 552.103 of the Government Code for the submitted information. However, we find the district has failed to establish a compelling reason to address its claimed exception. As no further exceptions to disclosure have been raised, the district must release the submitted 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,

Kimbell Kesling  
Assistant Attorney General  
Open Records Division

KK/jm

Ref: ID# 930643

c: 4 Requestors