



THE ATTORNEY GENERAL
OF TEXAS

JIM MATTOX
ATTORNEY GENERAL

July 24, 1990

Mr. David M. Feldman
Attorney
Vinson & Elkins
3300 First City Tower
1001 Fannin
Houston, Texas 77002-6760

OR90-316

Dear Mr. Feldman:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 9956.

The Alvin Independent School District (the district) received an open records request from an attorney for a copy of "the official investigation concerning an alleged misconduct" on the part the attorney's client, a student in the district. The investigatory report, which was prepared by school security personnel, consists primarily of statements made during the investigation by two students and their parents.

You contend that the report may be withheld from the requestor pursuant to sections 3(a)(8) and 3(a)(14) of the Open Records Act. Because the investigation of the incident in question has been closed, and you have not demonstrated how the release of the report would "unduly interfere with law enforcement," section 3(a)(8) is inapplicable. See Open Records Decision No. 216 (1978).

Section 3(a)(14) requires that the district withhold:

student records at educational institutions funded wholly, or in part, by state revenue; but such records shall be made available upon request of educational institution personnel, the student involved, that student's parent, legal guardian, or spouse or a person

conducting a child abuse investigation required by Section 34.05, Family Code.

Section 14(e) of the Open Records Act provides as follows:

Nothing in this Act shall be construed to require the release of information contained in education records of any educational agency or institution except in conformity with the provisions of the Family Educational Rights and Privacy Act of 1974, as enacted by Section 513 of Public Law 93-380, codified as Title 20 U.S.C.A. Section 1232g, as amended.

The Family Educational Rights and Privacy Act of 1974, which is informally known as "the Buckley Amendment," provides that no federal funds will be made available under any applicable program to an educational agency or institution that releases education records of students without the written consent of the parents to anyone but certain enumerated federal, state, and local officials and institutions. 20 U.S.C. § 1232g(b)(1). If any document in the education records of a student includes information on more than one student, the parents of one student have the right to inspect and review only the part of the document that relates to that student. Id. § 1232g(a)(1)(A). When a student has attained the age of eighteen years or is attending an institution of postsecondary education, the student holds the rights accorded by Congress to inspect these records. Id. § 1232g(d).

The report at issue contains information directly relating to two students and is maintained by an educational agency, and as such constitutes an "education record." 20 U.S.C. § 1232g(a)(4)(A). Although the parent of one of the students has authorized the district to release the report to the requestor, that authorization extends only to the portions of the report that do not tend to identify any another student. Absent a similar authorization from the parent of the other student or from the student herself if qualified to do so as specified above, the remaining portions of the report must be withheld pursuant to section 1232g(a)(1)(A). We have marked those portions of the report that you must release to the requestor.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a

published open records decision. If you have questions about this ruling, please refer to OR90-316.

Yours very truly,



Susan Garrison
Assistant Attorney General
Opinion Committee

SG/RWP/le

Ref.: ID# 9956

cc: Leo Torres
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