



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

November 28, 1994

Ms. Margaret E. Baker  
McGinnis, Lochridge & Kilgore  
1300 Capitol Center  
919 Congress Avenue  
Austin, Texas 78701

OR94-750

Dear Ms. Baker:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552. We assigned your request ID# 29470.

The Austin Independent School District (the "school district"), which you represent, has received a request for information relating to a certain internal audit. Specifically, the requestor seeks "copies of all invoices, payments, school accounting records, band account records, student account records, trip account records, booster account records, and other associated material that was reviewed by [the Director of Internal Audit] relating to [the Bowie High School Band Activity Fund Audit.]" You advise us that the school district has made some of the requested information available to the requestor. You seek to withhold the remaining information, which you have submitted to us for review, and claim that sections 552.101 and 552.114 of the Government Code exempt it from required public disclosure.

Section 552.101 of the Government Code exempts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.114 exempts "information in a student record at an educational institution funded wholly or partly by state revenue." Section 552.026 incorporates the requirements of the federal Family Educational Rights and Privacy Act of 1974 ("FERPA"), 20 U.S.C. § 1232g, into the Open Records Act. Open Records Decision No. 431 (1985). FERPA provides the following:

No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of education records (or personally identifiable information contained therein . . .) of students without the written consent of their parents to any individual, agency, or organization . . . .

20 U.S.C. § 1232g(b)(1). "Education records" are records that

- (i) contain information directly related to a student; and
- (ii) *are maintained by an educational agency or institution or by a person acting for such agency or institution.*

*Id.* § 1232g(a)(4)(A); *see also* Open Records Decision Nos. 462 (1987) at 14-15; 447 (1986).<sup>1</sup> Information must be withheld from required public disclosure under FERPA only to the extent "reasonable and necessary to avoid personally identifying a particular student." Open Records Decision Nos. 332 (1982); 206 (1978). FERPA applies to students formerly enrolled at an educational agency or institution. *See* Open Records Decision Nos. 539 (1990); 469 (1987).

We have examined the information submitted to us for review. It reveals the names of numerous students and parents. The school district must redact the student and parent names and release them only as FERPA permits.<sup>2</sup> The remainder of the requested information, however, does not reveal the identity of students or their parents, nor would its release make the students' identities "easily traceable." *See* 34 C.F.R. § 99.3 (providing that nondisclosure may be required if disclosure would make student's identity "easily traceable"). FERPA does not govern this information. Accordingly, except as noted above, the school district must release the requested information in its entirety.

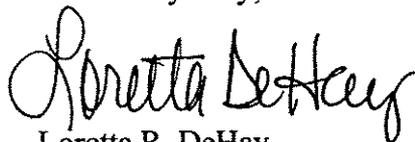
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<sup>1</sup>The phrase "student record" in section 552.114 has generally been construed to be the equivalent of "education records." Thus, our resolution of the availability of this information under FERPA in this instance also resolves the applicability of section 552.114 to the requested information. *See generally* Attorney General Opinion H-447 (1974); Open Records Decision Nos. 539 (1990); 477 (1987); 332 (1982).

<sup>2</sup>We note that the requestor is a parent of a former school district student. FERPA prohibits an educational agency or institution from denying "the parents of students who are or have been in attendance at a school of such agency or at such institution . . . the right to inspect and review the education records of their children. 20 U.S.C. § 1232g(a)(1)(A). Accordingly, the school district must release the requested information to the extent that it contains information relating to the requestor's child.

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 contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Loretta R. DeHay". The signature is written in a cursive style with a large initial "L".

Loretta R. DeHay  
Assistant Attorney General  
Open Government Section

LRD/GCK/rho

Enclosures: Submitted documents

Ref.: ID# 29470