



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

March 15, 1995

Mr. Yuri A. Calderón  
Assistant School Attorney  
Houston Independent School District  
Hattie Mae White Administration Building  
3830 Richmond Avenue  
Houston, Texas 77027-5838

OR95-121

Dear Mr. Calderón:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 30954.

The Houston Independent School District (the "school district") received a request by a school district employee for her "in house/in school file." You contend that portions of the requested information are excepted from required public disclosure under sections 552.111 and 552.114 of the Government Code.<sup>1</sup>

Section 552.111 excepts "[a]n interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." In a recent opinion that reexamined the section 552.111 exception, this office concluded that section 552.111 excepts from public disclosure only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body at issue. *Open Records Decision No. 615 (1993)* at 5 (copy enclosed). The policymaking functions of an agency, however, do not encompass routine internal administrative and personnel matters. *Id.* Furthermore, section 552.111 does not except purely factual information from disclosure. *Id.*

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<sup>1</sup>We note that the requestor has indicated in writing that she does not want any information about students' grades that may be in the file. Accordingly, this information is not subject to the request and we do not address the release of such information in this ruling.

The information you have marked as excepted under section 552.111 relates solely to routine internal administrative and personnel matters. Moreover, much of the information is purely factual in nature. Furthermore, as we stated in Open Records Letter Nos. 95-009 and 95-008 (1995), the Office of the Attorney General generally does not consider unpublished rulings in making determinations under the Open Records Act; this office continues to adhere to Open Records Decision No. 615. You may not withhold any of the requested information under section 552.111 of the Government Code.

Under section 552.114(a), information is excepted "if it is information in a student record at an educational institution funded wholly or partly by state revenue." Section 552.026 of the Government Code incorporates another source of law, specifically, the federal Family Educational Rights and Privacy Act of 1974 ("FERPA"), into the Open Records Act, providing that the act

does not require the release of information contained in education records of an educational agency or institution, except in conformity with the Family Educational Rights and Privacy Act of 1974, Sec. 513, Pub. L. No. 93-380, 20 U.S.C. Sec. 1232g.

Gov't Code § 552.026; see also 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 educational records (or personally identifiable information contained therein other than directory information, as defined in paragraph (5) of subsection (a) . . .) 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 which:

- (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). Sections 552.114(a) and 552.026 may not be used to withhold entire documents; the school district must delete information only to the extent "reasonable and necessary to avoid personally identifying a particular student" or "one or both parents of such a student." Open Records Decision No. 332 (1982) at 3. Thus, only information identifying or tending to identify students or their parents must be withheld from required public disclosure.

Portions of the documents submitted for our review contain information identifying or tending to identify students or their parents. For your convenience we have marked with red brackets the information that must be withheld from required public disclosure.

Finally, we note that one of the submitted documents appears to fall within the definition of "directory information." The general prohibition against release of student information does not apply to "directory information." "Directory information" may be released under FERPA after compliance with notice requirements that afford affected students the right to object to the release of directory information relating to them. 20 U.S.C. § 1232g(a)(5)(B); *see also* Open Records Decision Nos. 244, 242 (1980); 229 (1979). "Directory information" includes, but is not limited to, the following:

the student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student.

20 U.S.C. § 1232(g)(a)(5)(A).<sup>2</sup> One document appears to constitute information that falls within the definition of "directory information." This information has been marked for your convenience. We conclude that the school district, after complying with federal notice requirements, must release this information.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay  
Assistant Attorney General  
Open Government Section

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<sup>2</sup>An educational institution may establish additional categories of directory information, provided that it complies with federal notice requirements. *See* 34 C.F.R. §§ 99.3, .37; *see also* Open Records Decision Nos. 244 (1980); 151 (1977).

Ref.: ID# 30954

Enclosures: Open Records Decision No. 615  
Marked documents

cc: Ms. Greta C. Birch  
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(w/o enclosures)