



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 28, 1995

Ms. Lisa A. Brown
Bracewell & Patterson, L.L.P.
South Tower Pennzoil Place
711 Louisiana Street, Suite 2900
Houston, Texas 77002-2781

OR95-530

Dear Ms. Brown:

On behalf of the Cypress-Fairbanks Independent School District (the "district"), you ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. We assigned your request an identification number, ID# 30395.

The district has received a request for "copies of all statements made by individuals" relating to an alleged incident involving a particular student. The requested information consists of the handwritten, signed statements of particular students regarding the alleged incident. The requestor is a representative of the student's parents and the student.

You believe section 552.026 of the Government Code, incorporating the federal Family Educational Rights and Privacy Act of 1974 ("FERPA"), 20 U.S.C. § 1232g, prohibits the release of these records in whole. In the alternative, you contend that section 552.026 of the Government Code, together with FERPA, requires the school district to redact the names of all students in the requested information except the name of the student whom the requestor represents. You have submitted to this office copies of the letters at issue for our review. *See* Gov't Code § 552.303 (requiring governmental body that requests attorney general decision on open records request to supply to attorney general specific information requested).

Section 552.026 of the Government Code governs the release of student records by an educational institution that receives federal funds under a program the federal government administers. *See* Open Records Decision No. 480 (1987) at 3 (quoting Open Records Decision No. 427 (1985)). Section 552.026 provides as follows:

This chapter does not require the release of information contained in education records of an educational agency or institution, except in conformity with [FERPA].

We assume that the district receives federal funds under at least one program that the federal government administers. We therefore will consider whether the district may release the documents you have submitted under FERPA.

FERPA provides that no federal funds will be made available under an applicable program to an educational agency or institution that releases to anyone but certain enumerated federal, state, and local officials and institutions personally identifiable information (other than directory information) contained in a student's education records unless the student's parent has authorized otherwise. *See* 20 U.S.C. § 1232g(b)(1). FERPA further provides the parents of a student with a right to inspect their child's education records. *See id.* § 1232g(a)(1)(A). "Education records" consist of those records that contain information directly related to a student and that an educational agency or institution or a person acting for such agency or institution maintains. *Id.* § 1232g(a)(4)(A).

Inasmuch as these letters "contain information directly related to a student" and are maintained by an educational agency or institution, we believe that FERPA applies. In this instance, however, the requested education records refer to more than one student, and the parents of only one of the students named in the records has requested the documents. We must consider, therefore, whether in this particular situation the district must withhold the records in their entirety from the requestor or withhold only those portions identifying students other than the child of the requestor.

Generally, FERPA requires an educational institution or agency only to deidentify education records before releasing them. *See* Open Records Decision No. 332 (1982) at 3. Thus, in general, an educational institution must delete from an education record "all information contained therein to the extent 'reasonable and necessary to avoid personally identifying a particular student in the class.'" *Id.* (quoting Open Records Decision No. 206 (1978)).

In this case, however, the requested documents are handwritten. In Open Records Decision No. 224 (1979) at 2, this office concluded that the release of a student's handwritten comments, even if unsigned, would make the identity of the student easily traceable through the handwriting, style of expression, or the particular incidents related in the comments. We believe the same rationale applies here: the release of these handwritten statements would make the identity of the student authors easily traceable through the handwriting, the style of expression, and the particular incidents alleged in the comments. Deidentifying the documents at issue here is not possible.

We conclude, therefore, that the district must withhold the requested information from public disclosure in its entirety.¹

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 may not be relied upon as a previous determination under section 552.301 of the Government Code regarding any other records. If you have questions about this ruling, please contact this office.

Yours very truly,



Kymberly K. Oltrogge
Assistant Attorney General
Open Government Section

KKO/LRD/rho

Ref.: ID# 30395

Enclosures: Submitted documents

cc: Mr. Thomas Garth, III
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(w/o enclosures)

¹In the event that the district receives no federal funds under a program that the federal government administers, we believe that section 552.114 of the Government Code, which generally exempts from required public disclosure "student records at educational institutions funded wholly, or in part, by state revenue," also would mandate that the district withhold the information from the requestor.