



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 28, 1995

Mr. Jeffrey J. Horner
Bracewell & Patterson, L.L.P.
South Tower Pennzoil Place
711 Louisiana Street, Suite 2900
Houston, Texas 77002-2781

OR95-535

Dear Mr. Horner:

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# 31566.

The Galena Park Independent School District (the "district"), which you represent, received an open records request from one of the district's school bus drivers for, among other things, "copies of the documentations of the allegations of which I have been suspended as of January 13." You have submitted to this office as responsive to the request various records, including correspondence, memoranda, incident reports, and student statements, pertaining to the district's investigation of the allegations against the requestor. You contend that the portions of these documents that you have highlighted constitute "student records" that must be withheld from the public¹ pursuant to section 552.114 of the Government Code.

Section 552.114(a) requires that the district withhold "information in a student record at an educational institution funded wholly or partly by state revenue." Additionally, section 552.026 of the Government Code provides as follows:

¹Although the requestor notes that he has been informed by his "legal advisor" that he is entitled to these records "to prepare my defense," we address here only the requestor's right to these records as a member of the public under the Open Records Act.

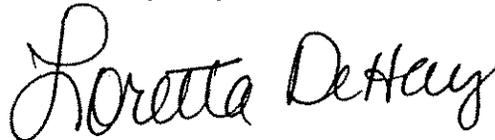
This chapter does not require the release of information contained in education records of an educational agency or institution, except in conformity with the Family Educational Rights and Privacy Act of 1974, Sec. 513, Pub. L. No. 93-380, 20 U.S.C. Sec. 1232g.

The Family Educational Rights and Privacy Act of 1974 ("FERPA") provides that no federal funds will be made available under any applicable program to an educational agency or institution that releases personally identifiable information (other than directory information) contained in a student's education records to anyone but certain numerated federal, state, and local officials and institutions, unless otherwise authorized by the student's parent. See 20 U.S.C. § 1232g(b)(1). "Education records" means those records that contain information directly related to a student and are maintained by an educational agency or institution or by a person acting for such agency or institution. *Id.* § 1232g(a)(4)(A).

Although 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), all of the information you have marked, if released, would enable individuals familiar with the incident under investigation to identify the students involved. Consequently, the district must withhold all of the information you have marked as "student records" pursuant to sections 552.026 and 552.114.

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

LRD/RWP/rho

Ref.: ID# 31566

Enclosures: Submitted documents

cc: Mr. Ernie Gonzales
13209 Corpus Christi
Houston, Texas 77015
(w/o enclosures)