



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

August 22, 1995

Mr. Raymundo Lopez  
Garcia & Lopez  
214 West Cano Street  
Edinburg, Texas 78539

OR95-804

Dear Mr. Lopez:

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# 33313.

The Donna Independent School District (the "district"), which you represent, received an open records request from an attorney representing the parents of one of the district's students. The requestor seeks certain records pertaining to his clients' child as well as other students. You have submitted to this office several records as representative of all of the district's records coming within the ambit of the open records request<sup>1</sup> and seek to withhold these records pursuant to various exceptions to required public disclosure under the Open Records Act. However, because we conclude that the requestor's clients have a special right of access to much of the requested information, we need not consider the applicability of many of the exceptions you raised.

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

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<sup>1</sup>In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision No. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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. [Emphasis added.]

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. 20 U.S.C. § 1232g(a)(4)(A). The records you submitted to this office for review are clearly "education records."

FERPA requires that a student's education records be released to his or her parents.<sup>2</sup> See 20 U.S.C. § 1232g(a)(1)(A). Accordingly, most of the Open Records Act's exceptions to required public disclosure that you raise may not be applied to deny the requestor's clients their right to inspect their own child's education records.<sup>3</sup> See, e.g., Open Records Decision No. 431 (1985) (litigation exception).

On the other hand, as noted above, the records you submitted to this office also contain information that pertains solely to students other than that of the requestor's clients. 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). To the extent that the requested records contain information about other students, that information must be withheld. Attorney General Opinion JM-36 (1983). We have marked the portions of the representative sample you submitted to this office that the district must redact in these and similar requested documents in accordance with FERPA. The district must release the remaining information to the requestor.

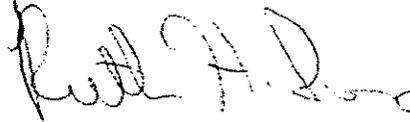
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<sup>2</sup>We note that although the requestor's clients have special right of access to their child's education records, FERPA provides specific requirements for the authorized release of those records to a third party such as the requestor. See 20 U.S.C. § 1232g(b)(2)(A) (parental consent must be in writing and specify the records to be released, the reason for the release, and to whom the records shall be released). In this instance you have not presented to this office any such authorization. However, for purposes of this ruling we will assume that either the district in fact has received such authorization or that the parents are willing to provide such an authorization in the future.

<sup>3</sup>Although information coming within the attorney-client privilege may be withheld from a student's parents, we do not believe any of the information contained in the records submitted to this office may be so characterized.

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,



Ruth H. Soucy  
Assistant Attorney General  
Open Government Section

RHS/RWP/rho

Ref.: ID# 33313

Enclosures: Marked documents

cc: Mr. Jose R. Guerrero  
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(w/o enclosures)