



## Office of the Attorney General

State of Texas

January 24, 1997

DAN MORALES  
ATTORNEY GENERAL

Mr. Hardy E. Thompson, III  
Cowles & Thompson  
901 Main Street, Suite 4000  
Dallas, Texas 76202-3793

OR97-0158

Dear Mr. Thompson:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 103292.

The Renaissance Charter School (the "school") received a request for a variety of information, including the names of students who have been or are currently claimed for state reimbursement purposes. As you have asked this office for a decision concerning the list of student names only, we assume that the other information requested has already been released to the requestor. You submitted to this office as responsive to the request a list of student names. You assert that this list is excepted from disclosure pursuant to federal law and section 552.114 of the Government Code.<sup>1</sup>

Under section 552.114(a), information is excepted from public disclosure "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 provides that education records may not be disclosed unless released in conformity with the Family Educational Rights and Privacy Act of 1974 ("FERPA"), title 20 of the United States Code, section 1232g. FERPA provides that no federal funds will be made available under any applicable program to an educational agency or institution that releases identifying information in a minor student's records without parental consent. 20 U.S.C. § 1232g(b)(1). We note that this office has generally treated student record information under section 552.114 as the equivalent of education record information under FERPA. Open Records Decision No. 634 (1995) at 5.

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<sup>1</sup>We note that this office determined, in Open Records Decision No. 634 (1995), that (1) an educational agency or institution may withhold from public disclosure information that is protected by FERPA and excepted from required public disclosure by sections 552.026 and 552.101 without the necessity of requesting an attorney general decision as to those exceptions, and (2) an educational agency or institution that is state-funded may withhold from public disclosure information that is excepted from required public disclosure by section 552.114 as a "student record", insofar as the student record is protected by FERPA, without the necessity of requesting an attorney general decision as to that exception.

Although education records are generally protected from disclosure, FERPA does not prohibit the release of directory information. 20 U.S.C. § 1232g(a)(5)(A). Directory information includes the names of students. *Id.* In regard to directory information, FERPA provides:

Any educational agency or institution making public directory information shall give public notice of the categories of information which it has designated as such information with respect to each student attending the institution or agency and shall allow a reasonable period of time after such notice has been given for a parent to inform the institution or agency that any or all of the information designated should not be released without the parent's prior consent

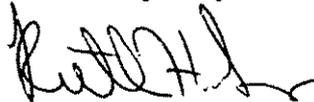
*Id.* § 1232g(a)(5)(B).

You state the school does not make public any type of directory information, nor does it provide public notice to parents. You argue that this makes the requested names information that is confidential under FERPA. We disagree.

A list of names of students is directory information that is not generally confidential under FERPA. 20 U.S.C. § 1232g(a)(5)(A). Directory information that is not confidential under FERPA is considered a public record under chapter 552 of the Government Code, as long as the school has complied with FERPA notice requirements, as provided by section 552.026 of the Government Code. *See* Open Records Decision No. 244 (1980). Thus, for purposes of eligibility for federal funding, the school may have the option to not disclose directory information. However, for purposes of Government Code chapter 552, the school must provide the information in compliance with FERPA notice requirements concerning directory information. We note that, in compliance with the notice requirements, information that parents object to providing is confidential under FERPA. 20 U.S.C. § 1232g(a)(5)(B).

We are resolving this matter with this 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 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 Records Division

RHS/ch

Ref.: ID# 103292

Enclosures: Open Records Decision No. 634 (1995)  
Submitted document

cc: Mr. Max E. Hill  
P.O. Box 233  
White Oak, Texas 75693  
(w/enclosure - Open Records Decision No. 634 (1995))