



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 8, 1997

Mr. Jose R. Guerrero
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Attorneys at Law
900 North Main
McAllen, Texas 78501

OR97-1784

Dear Mr. Guerrero:

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# 107845.

The La Joya Independent School District (the "school district") received a request in the form of an authorization for the release of all records concerning a specific school district student to Advocacy Incorporated ("Advocacy, Inc."). You state that the school district responded to this authorization form by informing Advocacy, Inc. that the school district required an original authorization in a suggested format which the school district provided to Advocacy, Inc. You claim, and Advocacy, Inc. concurs, that the requested information is excepted from disclosure under section 552.114 of the Government Code, unless the student's parent consents to the release of the records.¹

Initially, we observe that in Open Records Decision No. 634 (1995), this office concluded that (1) an educational agency or institution may withhold from public disclosure information that is protected by the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. 1232g, 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. We remind you that under FERPA, "education records" are records that

¹Additionally, the school district claims that the release of the requested information is governed by sections 552.026 and 552.101 of the Government Code, and under the federal Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g.

- (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.

20 U.S.C. § 1232g(a)(4)(A). *See also* Open Records Decision Nos. 462 (1987), 447 (1986).

FERPA provides parents a right of access to the education records of their children. 20 U.S.C. § 1232g(a)(1)(A). Pursuant to FERPA, “[e]ach educational agency or institution shall establish appropriate procedures for the granting of a request by parents for access to the education records of their children within a reasonable period of time, but in no case more than forty-five days after the request has been made.” *Id.* We, therefore, conclude that the school district may establish appropriate procedures requiring specific information for the consent to release educational records in accordance with federal law.²

If you have further questions as to the applicability of FERPA to information that is the subject of an open records request, you may consult with the United States Department of Education’s Family Policy Compliance Office. *See* Open Records Decision No. 634 (1995) at 4, n.6, 8.

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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Vickie Prehoditch
Assistant Attorney General
Open Records Division

VDP/gle

Ref.: ID# 107845

²*Compare* 20 U.S.C. § 1232g(a)(1)(A) with section 552.229(a) of the Government Code (consent for release of information that is available to specific person under sections 552.023 and 552.307 of the Government Code must be in writing and signed by specific person or person’s authorized representative).

Mr. Jose R. Guerrero - Page 3

Enclosures: Submitted documents

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(w/o enclosures)

