



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

August 25, 1997

Mr. Ron Schrader, Ph.D.  
Superintendent of Schools  
South Texas Independent School District  
100 Med High Drive  
Mercedes, Texas 78570

OR97-1895

Dear Mr. Schrader:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 107990.

The South Texas Independent School District (the "district") received a request for the school transcript, withdrawal grades, health and immunization records, and numerical grade scale concerning a former student. The student's new middle school has requested the student records. The parent of the student has provided the district with a signed release to transfer the requested records to the new school. Gov't Code § 552.229. You explain that you are willing to release the records, but the former student failed to return at least one of his assigned, state-issued textbooks when he withdrew from your school. You claim, therefore, that you are withholding the requested records until the student or the parent returns the textbooks or pays \$39.27.

Although you ask for a decision from this office under the Open Records Act, access to the documents submitted in this circumstance are governed by provisions outside the Open Records Act. *See, e.g.*, Open Records Decision No. 598 (1991) (provisions more specific to particular information requested prevail over general access statute, based upon well-established rule that specific statutes prevail over general ones), 451 (1986). Thus, we must make a determination pursuant to the Education Code's statutory provisions.

You claim that the district has the authority to withhold the student records under the Education Code. Section 31.104(d) of the Education Code provides:

Each student, or the student's parent or guardian, is responsible for each textbook not returned by the student. A student who fails to return all textbooks forfeits the right to free textbooks until each textbook previously issued but not returned is paid for by the student, parent, or guardian. As provided by policy of the board

of trustees or governing body, a school district or open-enrollment charter school may waive or reduce the payment requirement if the student is from a low-income family. The district or school shall allow the student to use textbooks at school during each school day. *If a textbook is not returned or paid for, the district or school may withhold the student's records.* A district or school may not, under this subsection, prevent a student from graduating, participating in a graduation ceremony, or receiving a diploma.

Educ. Code § 31.104 (d) (emphasis added). You argue that because the student has failed to return his textbooks, you may withhold the student's records. You explain that the district does not own the textbooks, but merely serves as the legal custodian of the state-owned property. Educ. Code § 31.102. You also point out that the Education Code requires the district to "distribute textbooks to students in a manner that the board or governing body determines is most effective and economical." Educ. Code § 31.102(c). Consequently, you assert that the district should not be responsible for the costs of the books simply because the student has transferred to another school district. You argue that this is neither effective nor economical.

The requestor, however, seeks the information at issue pursuant to statutory enrollment requirements. Educ. Code § 25.002. Section 25.002 states that

(a) Not later than the 30th day after the date a parent or other person with legal control of a child under a court order enrolls the child in a public school, the parent or other person *or the school district in which the child most recently attended school shall furnish to the school district:*

(1) the child's birth certificate or another document suitable as proof of the child's identity;

(2) a copy of the child's records from the school the child most recently attended if the child has been previously enrolled in a school in this state or another state; and

(3) a record showing that the child has the immunizations as required under Section 38.001, in the case of a child required under that section to be immunized, proof as required by that section showing that the child is not required to be immunized, or proof that the child is entitled to provisional admission under that section and under rules adopted under that section. [Emphasis Added.]

In this instance, the requestor is the student's new school. We believe that the specific circumstance at issue here is the transfer of the student's records to his new school.

Thus, we believe that you must release the requested student records to the new school. Educ. Code § 25.002; *Cf.* Open Records Decision No. 598 (1991) (specific statutes prevail over general ones) (citing *Cuellar v. State*, 521 S.W.2d 277 (Tex.Crim.App.1975); TEX. JUR.3d Statutes §§ 126, 136). Accordingly, the district's authority to withhold student records under section 31.104 of the Education Code is inapplicable when another school district makes a request under section 25.002 of the Education Code. You must release the records to the student's new school.

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 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Don Ballard  
Assistant Attorney General  
Open Records Division

JDB/ch

Ref: ID# 107990

Enclosures: Submitted documents

cc: Registrar  
Katherine Stinson Middle School  
13200 Skyhawk Drive  
San Antonio, Texas 78249  
(w/o enclosures)

