



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

June 26, 1998

Mr. David Sochia  
Walsh, Anderson, Brown, Schulze & Aldridge, P.C.  
Renaissance Plaza, Suite 800  
70 N.E. Loop 410  
San Antonio, Texas 78246-0606

OR98-1531

Dear Mr. Sochia:

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# 116012.

The Alamo Community College District ("ACCD") received a request for all records relating to an ACCD instructor. You contend that the requested documents are excepted from disclosure under sections 552.026, 552.101, 552.103, 552.107, 552.108, 552.111, 552.114, and 552.117 of the Government Code. We have considered the exceptions you claim and have reviewed the documents at issue.

You contend that the submitted documents are excepted from disclosure as "student records." 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 of 1974 ("FERPA"), 20 U.S.C. § 1232g, and excepted from required public disclosure by sections 552.026 and 552.101 of the Government Code 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 of the Government Code 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. In this instance, however, you have submitted the documents at issue to this office for consideration. Therefore, we will consider whether these documents are excepted from disclosure under sections 552.026 and 552.114 of the Government Code.

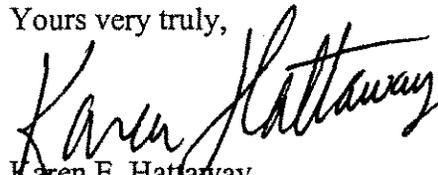
“Education records” under FERPA are records that

- (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). The submitted documents pertain to a sexual harassment complaint that a former student filed against an ACCD instructor. The former student alleges that she was sexually harassed while attending classes at ACCD. Each one of the submitted documents identifies the complainant, and many of the documents identify other students who were contacted during the investigation of the complaint. The submitted documents are education records under FERPA, and, therefore, must be withheld from disclosure to the extent “reasonable and necessary to avoid personally identifying a particular student.” *See* Open Records Decision Nos. 539 (1990), 332 (1982), 206 (1978). In this instance, ACCD must withhold the submitted documents from disclosure in their entirety in order to satisfy the requirements of FERPA. We have enclosed for your consideration two opinions of the Family Policy Compliance Office relating to sexual harassment investigations.<sup>1</sup>

Because we are able to resolve this matter under FERPA, we do not address your other arguments against disclosure. 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,



Karen E. Hattaway  
Assistant Attorney General  
Open Records Division

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<sup>1</sup>It appears that some of the submitted documents may have previously been released to the requestor's client. ACCD may re-release such documents to this requestor. *See* Opinion of Family Policy Compliance Office dated Oct. 17, 1997.

Enclosures: Submitted documents, Opinions of Family Policy Compliance Office

cc: Mr. Robert Hatcher  
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(w/o - Submitted documents, w/ - Opinions of Family Policy Compliance Office)