

We note at this point, however, that while you must withhold information protected by common-law privacy and by other *mandatory* exceptions to the Open Records Act -- such as section 552.117, discussed above -- from release to the public, the district may transfer such information to the board without destroying its confidential character. Open Records Decision No. 516 (1989).

You also contend that some of the submitted information is subject to the Family Educational Rights and Privacy Act of 1974 ("FERPA"). *See* 20 U.S.C. § 1232g. Section 552.026 of the Government Code provides as follows:

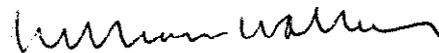
This chapter does not require the release of information contained in education records of an educational agency or institution, except in conformity with the Family Educational Rights and Privacy Act of 1974, Sec. 513, Pub. L. No. 93-380, 20 U.S.C. Sec. 1232g.

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 enumerated 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).

You advise that the submitted records are law enforcement records of the district's police department. Such law enforcement records are excluded from FERPA's definition of "educational records." 20 U.S.C. § 1232g(a)(4)(B)(2). Therefore, in our opinion, FERPA does not restrict the transfer of the submitted records to the board.

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,



William Walker
Assistant Attorney General
Open Records Division

WMW/rho

Ref: ID# 120846

Enclosures: Marked documents

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