

January 26, 1999



OFFICE OF THE
ATTORNEY GENERAL
STATE OF TEXAS

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Mr. Robert F. Maxfield
Legal Advisor
Dallas County Sheriff's Department
Frank Crowley Courts Building
153 North Industrial Boulevard, LB-31
Dallas, Texas 75207-4313

OR99-0233

Dear Mr. Maxfield:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 121425.

The Dallas County Sheriff's Department (the "county") received a request for "a copy of Cynthia Ann Tyndall (07-09-63) application of employment and the entire documents contained in her personnel file prior, during and after graduating from the Dallas Sheriff Academy." You state that the county has no personnel files for Ms. Tyndall and you submit to this office the responsive information related to Ms. Tyndall's attendance as a police cadet at the Dallas County Sheriff's Academy. You claim that the requested information is excepted from disclosure under sections 552.026, 552.102, 552.103, 552.108, and 552.114 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.114 of the Government Code excepts from required public disclosure "information in a student record at an *educational institution* funded wholly or partly by state revenue."¹ (Emphasis added.) In Open Records Decision No. 427 (1985), this office concluded that a police academy that receives state funding is an "educational institution" for purposes of the Open Records Act and that the records of police cadets attending such an academy constitute "student records" for purposes of the statutory predecessor of section 552.114. You have represented

¹Section 552.114(b) provides that an individual's student records must be released only to educational institution personnel, the student or the student's parent, legal guardian, or spouse, or a person conducting a child abuse investigation required under the Texas Family Code.

to this office that the Dallas County Sheriff's Academy (the "academy") in fact receives state funding. We therefore conclude that the academy is an "educational institution" for purposes of section 552.114 of the Government Code.

The phrase "student record" in section 552.114 is not statutorily defined, but in Attorney General Opinion H-447 (1974) this office defined the phrase as follows:

[A] "student record" would generally include information concerning the student himself and his individual relationship to the educational institution. A list of student records would include, but not necessarily be limited to, the following: applications for admission, standardized achievement test scores, attendance data, scores on standardized intelligence, aptitude, and psychological tests, interest inventory results, health data, family background information, teacher or counselor ratings and observations, and reports of behavioral patterns or disciplinary actions.

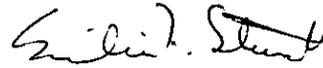
Attorney General Opinion H-447 at 2 (1974). Based on the above description, we agree with your contention that, to the extent the requestor seeks records specifically pertaining to Ms. Tyndall's attendance at the academy, such records constitute "student records" under section 552.114.

This office has also generally treated "student record" information as the equivalent of "education record" information that is protected by FERPA. *See* Open Records Decision Nos. 634 (1995), 539 (1990), 477 (1987), 332 (1982). Normally, information must be withheld from required public disclosure under FERPA and section 552.114 only to the extent "reasonable and necessary to avoid personally identifying a particular student." Open Records Decision Nos. 332 (1982); 206 (1978). In this situation, because the requestor has asked specifically for records that pertain only to Ms. Tyndall, the responsive records generally serve to identify the student. *Cf.* Open Records Decision Nos. 584 at 3 (1991) (information related to individuals receiving Aid to Families with Dependent Children or Medicaid assistance), 9 at 2 (1973) (information concerning persons receiving public assistance or medical assistance). Without a valid consent to release these records, the education records at issue are confidential and may not be disclosed. *See* Gov't Code §552.229.

Having decided that the requested information is exempt from disclosure under section 552.114, we need not address the other exceptions to disclosure that you raise. 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,



Emilie F. Stewart
Assistant Attorney General
Open Records Division

EFS\nc

Ref: ID# 121425

Enclosures: Submitted documents

cc: Mr. Harold Cornish
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(w/o enclosures)