



June 29, 1999

Mr. David Anderson
Chief Counsel
Office of Legal Services
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701-1494

OR99-1807

Dear Mr. Anderson:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 125244.

The Texas Education Agency (the "TEA") received a request for "all information regarding the licensing and any investigation and/or complaints of Kendall County Driver Education Service." You claim that the requested information is protected from disclosure under chapter 552 of the Government Code.

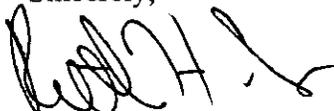
You assert that section 552.111 protects from disclosure records marked as Exhibit 2. Section 552.111 also excepts from disclosure attorney work product that was created in anticipation of civil litigation and consists of or tends to reveal an attorney's mental processes, conclusions, and legal theories. Open Records Decision No. 647 (1996). The governmental body has the burden of explaining to this office how (1) the information was created in anticipation of civil litigation under the test set forth in *National Tank v. Brotherton*, 851 S.W.2d 193, 200 (Tex. 1993), and (2) the information at issue consists of or tends to reveal the attorney's mental processes, conclusions, and legal theories. Open Records Decision No. 647 (1996). We agree that, based upon the information submitted and your arguments, Exhibit 2 is protected from disclosure under section 552.111.

You assert that information in Exhibit 3 is protected from disclosure under sections 552.114 and 552.130 of the Government Code. Section 552.114 provides for confidentiality of information "in a student record at an educational institution funded wholly or partly by state revenue." The term "student record" in section 552.114 has been generally construed to be

the equivalent of education records that are protected by the Family Educational Rights and Privacy Act ("FERPA"), title 20 of the United States Code, section 1232g.disclosure.¹ *See generally* Attorney General Opinion H-447 (1974); Open Records Decision Nos. 539 (1990); 477 (1987); 332 (1982). Although you assert the applicability of section 552.114, it is not apparent to this office that the driving school is an educational institution funded wholly or partly by state revenue. If the driving school is not an educational institution funded wholly or partly by state revenue subject to section 552.114 , only the drivers' license numbers in Exhibit 3 are protected from disclosure under section 552.130 of the Government Code.

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.

Sincerely,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 125244

Encl. Submitted documents

cc: Ms. Clari Feuerbacher
Brock & Person
10101 Reunion Place
San Antonio, Texas 78216-4157
(w/o enclosures)

¹We note that directory information relating to students is generally not protected from disclosure under FERPA. 20 U.S.C. § 1232g(a)(6)(1).