



August 19, 1999

Ms. Merri Schneider-Vogel
Bracewell & Patterson, L.L.P.
South Tower Pennzoil Place
711 Louisiana Street, Suite 2900
Houston, Texas 77002-2781

OR99-2356

Dear Ms. Schneider-Vogel:

On behalf of the Pearland Independent School District (the "school district"), you ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 126950.

The school district received a request for offensive and defensive statistics for its student baseball games. You ask whether the requested information is excepted from disclosure under section 552.026 of the Government Code.

Section 552.026 of the Government Code provides

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.

For purposes of the Family Educational Rights and Privacy Act of 1974 ("FERPA"), "education records" generally include "records, files, documents, and other materials" that "contain information directly related to a student" and that "are maintained by an educational agency or institution or by a person acting for such agency or institution."¹ 20 U.S.C. § 1232g(a)(4)(A). FERPA provides that no federal funds will be made available under any applicable program to an educational agency or institution that releases identifying information in a student's records without consent. 20 U.S.C. § 1232g(b)(1). However,

¹ We note that section 552.114 of the Government Code excepts from disclosure "information in a student record at an educational institution funded wholly or partly by state revenue." Gov't Code § 552.114(a). This office has generally treated "student records" as the equivalent of "education records" protected by FERPA. See Open Records Decision Nos. 539 (1990), 477 (1987), 332 (1982).

“directory information” is not subject to the FERPA confidentiality provisions. *Id.* § 1232g(b)(1). Directory information is defined as the type of information contained in the education record of a student the release of which would not be considered harmful or an invasion of privacy. 34 C.F.R. § 99.3. Directory information “includes but is not limited to” student name, address, telephone listing, date and place of birth, major field of study, participation in official recognized activities and sport, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and most recent previous educational agency or institution attended. *Id.* Directory information is subject to release after compliance with notice requirements that provide parents, or students who have reached age eighteen, the right to object to the release of directory information. *Id.* § 1232g(a)(5)(B).

The requested statistical information is contained in education records maintained by an educational institution. Thus, any release of the information must be in accordance with FERPA. The Family Policy Compliance Office of the United States Department of Education has advised us that individual offensive and defensive statistics from student baseball games may properly be classified as “directory information.” Because the requested information falls within the definition of directory information, the information must be made available to the public once the school district has complied with federal requirements for the release of directory information under FERPA. *See* 20 U.S.C. § 1232g(a)(5)(A); 34 C.F.R. § 99.3; Open Records Decision No. 242 (1980) (any information that can be treated as directory information under federal law must be afforded that status under the Public Information Act).

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,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref: ID# 126950

Encl. Submitted documents

cc: Mr. Sergio Medina
3512 East Broadway, #908
Pearland, Texas 77588
(w/o enclosures)