



November 1, 1999

Mr. Joe De Los Santos
Walsh, Anderson, Brown, Schultz, & Aldridge P.C.
P.O. Box 460606
San Antonio, Texas 78246-0606

OR99-3076

Dear Mr. De Los Santos:

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# 129647.

The Floresville Independent School District (the "district"), which you represent, received a written request for, among other things, two letters written by district students regarding one of their teachers. You state that the district has released to the requestor a transcription of the two letters with the students' identifying information redacted. You seek to withhold the original handwritten letters pursuant to sections 552.026 and 552.114 of the Government Code.

Section 552.114(a) of the Government Code requires that the district withhold "information in a student record at an educational institution funded wholly or partly by state revenue." Further, 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.

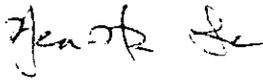
The Family Educational Rights and Privacy Act of 1974 ("FERPA") provides that no federal funds will be made available under any applicable program to an educational agency or institution that releases personally identifiable information, other than directory information,

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" are 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. *Id.* § 1232g(a)(4)(A).

For purposes of FERPA, the handwritten letters at issue constitute "education records" in that they contain information about identifiable students. *See* Open Records Decision No. 224 (1979) (student's handwritten comments that would make identity of student easily traceable through handwriting, style of expression, or particular incidents related in comments protected under FERPA). We agree that the handwritten letters must be withheld pursuant to sections 552.026 and 552.114 of the Government Code. *See also* Open Records Decision No. 634 (1995) (educational agency or institution may withhold personally identifiable nondirectory information without necessity of requesting attorney general decision).

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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/RWP/ljp

Ref.: ID# 129647

cc: Mr. Steven Hawkins
1248 FM 1922
Floresville, Texas 78114
(w/o enclosures)