



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 18, 2005

Ms. Laura C. Rodriguez  
Walsh, Anderson, Brown, Schulze & Aldridge, P.C.  
P.O. Box 460606  
San Antonio, Texas 78246-0606

OR2005-04313

Dear Ms. Rodriguez:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 224443.

The Comal Independent School District (the "district"), which you represent, received a request for a copy of the superintendent's contract, "to include extension with pay raise"; correspondence from the Texas Education Agency regarding an accreditation investigation; and definitions of terms used in published documents. You inform us that the district has released some of the requested information. You also inform us that the district has withheld student-identifying information under the federal Family Educational Rights and Privacy Act of 1974 ("FERPA"), section 1232g of title 20 of the United States Code.<sup>1</sup> You have submitted information that you claim is excepted from disclosure under sections 552.103 and

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<sup>1</sup>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); *see also* 34 C.F.R. § 99.3 (defining personally identifiable information). This office generally applies the same analysis under FERPA and section 552.114 of the Government Code, which excepts information in a student record at an educational institution funded wholly or partly by state revenue. *See* Gov't Code § 552.114(a); Open Records Decision No. 539 (1990). This office has determined that a governmental body may withhold student identifying information that is protected by FERPA and excepted from disclosure under section 552.114 without the necessity of requesting an attorney general decision as to those exceptions. *See* Open Records Decision No. 634 (1995).

552.116 of the Government Code. We have considered the exceptions you claim and have reviewed the submitted information.

We note that the submitted information is the subject of Open Records Letter No. 2005-03940 (2005). The prior ruling concludes that this same information may not be withheld under section 552.103 or section 552.116 and must be released. You do not inform us of any change in the law, facts, or circumstances on which the prior ruling is based. We therefore conclude that you must release the submitted information in accordance with our decision in Open Records Letter No. 2005-03940.<sup>2</sup> *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 6-7 (2001) (attorney general decision constitutes first type of previous determination under Gov't Code § 552.301(a) when (1) precisely same records or information previously were submitted under Gov't Code § 552.301(e)(1)(D); (2) same governmental body previously requested and received ruling; (3) prior ruling concluded that same records or information are or are not excepted from disclosure; and (4) law, facts, and circumstances on which prior ruling was based have not changed).

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

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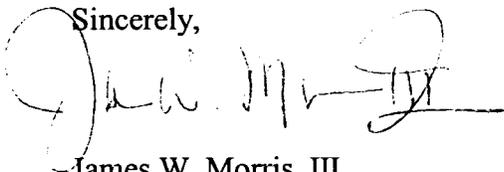
<sup>2</sup>As the prior ruling is dispositive, we do not address your claims under sections 552.103 and 552.116.

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "James W. Morris, III". The signature is written in a cursive style with a large initial "J" and a long horizontal stroke at the end.

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/sdk

Ref: ID# 224443

Enc: Submitted documents

c: Ms. Lois M. Duggan  
16391 Highway 306  
Canyon Lake, Texas 78133  
(w/o enclosures)