



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 31, 2009

Mr. Burt C. Harrison, III
Kazen, Meurer & Perez, L.L.P.
P.O. Box 6237
Laredo, Texas 78042

OR2009-04165

Dear Mr. Harrison:

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# 338521.

The Laredo Community College (the "college"), which you represent, received four requests from the same requestor for information related to the requestor's plan of action and probation. You claim that the requested information is excepted from disclosure under section 552.135 of the Government Code, as well as the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232(a).¹ We have considered the exceptions you claim and reviewed the submitted information.

The United States Department of Education Family Policy Compliance Office (the "DOE") has informed this office that FERPA does not permit state and local educational authorities to disclose to this office, without parental consent, unredacted, personally identifiable information contained in education records for the purposes of our review in the open records

¹We note that the college has withdrawn its previously asserted argument under section 552.107 of the Government Code.

ruling process under the Act.² Consequently, state and local educational authorities that receive a request for education records from a member of the public under the Act must not submit education records to this office in unredacted form, that is, in a form in which “personally identifiable information” is disclosed. See 34 C.F.R. § 99.3 (defining “personally identifiable information”). You have submitted, among other things, unredacted education records, including student handwritten statements to this office for review. See Open Records Decision No. 224 (1979) (student’s handwritten comments protected under FERPA because they would make identity of student easily traceable through handwriting, style of expression, or particular incidents related in the comments). Because our office is prohibited from reviewing education records, we will not address the applicability of FERPA to the information at issue. Such determinations under FERPA must be made by the educational authority in possession of the education record. However, to the extent you determine the information you have submitted is not protected by FERPA, we will consider your remaining claimed exception to the submitted information.

The college seeks to withhold from disclosure the complainants’ names and identifying information under section 552.135 of the Government Code. Section 552.135 provides, in relevant part:

(a) “Informer” means a student or former student or an employee or former employee of a school district who has furnished a report of another person’s or persons’ possible violation of criminal, civil, or regulatory law to the school district or the proper regulatory enforcement authority.

(b) An informer’s name or information that would substantially reveal the identity of an informer is excepted from [required public disclosure].

Gov’t Code § 552.135(a)-(b). However, by its terms, section 552.135 only applies to public school districts and not to colleges or universities. See *Ex Parte Torres*, 943 S.W. 2d 469 (Tex. Crim. App. 1997) (stating that if language of statute is not ambiguous, court must give effect to plain meaning of its words unless doing so would lead to absurd results). Accordingly, the college may not withhold any of the submitted information under section 552.135, and it must be released.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and

²A copy of this letter may be found on the attorney general’s website, available at http://www.oag.state.tx.us/opinopen/og_resources.shtml.

responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Tamara Wilcox
Assistant Attorney General
Open Records Division

TW/eeg

Ref: ID# 338521

Enc. Submitted documents

c: Requestor
(w/o enclosures)