



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 4, 2009

Ms. Christine Badillo
Attorney for Burnet Consolidated Independent School District
Walsh, Anderson, Brown, Aldridge & Gallegos, P.C.
P.O. Box 2156
Austin, Texas 78768

OR2009-07662

Dear Ms. Badillo:

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# 345130.

The Burnet Consolidated Independent School District (the "district"), which you represent, received two requests from different requestors for all information regarding an investigation of Texas Assessment of Knowledge and Skills ("TAKS") test misconduct by a named teacher. You state the district has provided some of the requested information to the requestors. You claim the submitted e-mails, witness statements, and memoranda are excepted from disclosure under section 552.135 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information. We have also received and considered comments submitted by one of the requestors. *See* Gov't Code § 552.304 (interested party may submit written comments regarding availability of requested information).

Section 552.135 of the Government Code provides:

¹We note the district has redacted students' names in the submitted documents pursuant to the Family Educational Rights and Privacy Act ("FERPA"), section 1232g of title 20 of the United States Code. The United States Department of Education Family Policy Compliance Office (the "DOE") has informed this office FERPA does not permit state and local educational authorities to disclose to this office, without parental or student consent, unredacted, personally identifiable information contained in education records for the purpose of our review in the open records ruling process under the Act. The DOE has determined FERPA determinations must be made by the educational authority in possession of the education records. We have posted a copy of the letter from the DOE to this office on the Attorney General's website: <http://www.oag.state.tx.us/open/20060725usdoe.pdf>.

(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.

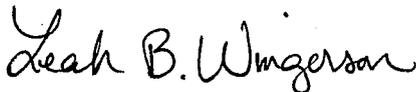
(b) An informer's name or information that would substantially reveal the identity of an informer is excepted from [required public disclosure].

Gov't Code § 552.135. You argue the submitted documents are excepted under section 552.135 because the documents "describe and memorialize an investigation conducted by [the district] into allegations of inappropriate conduct by a teacher in connection with the administration of TAKS," and the employees and students interviewed are all informers for purposes of section 552.135. You explain breaching the security of TAKS test administration is a violation of law. We note, however, section 552.135 protects an informer's identity, but does not encompass protection for witness information or statements. In this instance, most of the submitted information consists of witness statements and interviews, which are generally not withheld under section 552.135. However, we have marked the information in the witness statements and interviews that tends to identify a person who reported to the district a possible violation of law related to TAKS test administration. Thus, the district must withhold the marked informer's identifying information under section 552.135 of the Government Code. As you have claimed no other exceptions to disclosure for the remaining information, 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 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,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

Ref: ID# 345130

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)