



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

July 15, 2009

Mr. Thomas A. Gwosdz
Attorney at Law
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Victoria, Texas 77904-2149

OR2009-09783

Dear Mr. Gwosdz:

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# 349019.

The Moulton Independent School District (the "district"), which you represent, received a request for information pertaining to incidents involving the requestor's daughter. The district claims the requested information is not subject to the Act. Furthermore, the district has redacted some information pursuant to the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232(a).¹ We have considered the district's argument and reviewed the submitted information.

Section 552.021 of the Government Code provides for public access to "public information." Gov't Code § 552.021. Section 552.002(a) defines "public information" as

information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

(1) by a governmental body; or

¹The 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 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>.

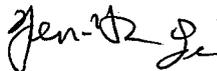
(2) for a governmental body and the governmental body owns the information or has a right of access to it.

Id. § 552.002(a). Thus, virtually all information in a governmental body's physical possession constitutes public information subject to the Act. *See* Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988). The district argues Exhibit C, which consists of an administrator's personal notes used to enhance the administrator's memory, is not public information under section 552.002. In support of its position, the district cites to Open Records Decision No. 77 (1975), in which we concluded personal notes made by individual faculty members for their own use as memory aids were not subject to the Act. However, this office has issued numerous rulings since the issuance of Open Records Decision No. 77 concluding information collected, assembled, or maintained in connection with the transaction of official business, including "personal" notes, is subject to the Act. *See, e.g.,* Open Records Decision Nos. 626 (1994) (handwritten notes taken during oral interview by Texas Department of Public Safety promotion board members are public information), 327 (1982) (notes made by school principal and athletic director relating to teacher "were made in their capacities as supervisors of the employee" and constitute public information), 120 (1976) (faculty members' written evaluations of doctoral student's qualifying exam subject to predecessor of Act). Upon review, we find the submitted notes relate to school matters concerning a student. Thus, the district created and maintained the information in connection with the transaction of its official business. Therefore, we conclude Exhibit C is subject to the Act and must be released to the requestor.

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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/sdk

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Enc. Submitted documents

c: Requestor
(w/o enclosures)