



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 8, 2013

Mr. Leonard J. Schwartz
General Counsel
Texas School for the Blind and Visually Impaired
1100 West 45th Street
Austin, Texas 78756

OR2013-05554

Dear Mr. Schwartz:

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# 486941 (Governmental Body PIC ID: TSBVI #1).

The Texas School for the Blind and Visually Impaired (the "school") received a request for information relating to disciplinary actions taken against the requestor in the past calendar year, including information concerning any related investigations. You state the school is providing some of the requested information to the requestor but claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

The United States Department of Education Family Policy Compliance Office has informed this office that the Family Educational Rights and Privacy Act ("FERPA") does not permit state and local educational authorities to disclose to this office, without parental or an adult student's consent, unredacted, personally identifiable information contained in education

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

records for the purpose of our review in the open records 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").

The submitted information consists of redacted and unredacted documents that you state consist of education records. Our office is prohibited from reviewing these records to determine whether appropriate redactions under FERPA have been or should be made; therefore, we will not address the applicability of FERPA to any of the submitted records. *See* 20 U.S.C. § 1232g(a)(1)(A). Such determinations under FERPA must be made by the educational authority in possession of the education records. Accordingly, we do not address your arguments to withhold the submitted information from release under the Act.

You also ask this office to issue a previous determination that would permit both the school and the Texas School for the Deaf to withhold child abuse investigation records under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code without the necessity of requesting a decision from this office. However, we decline to issue such a previous determination at this time. Accordingly, 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, toll free, at (888) 672-6787.

Sincerely,


James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tch

²A copy of this letter may be found on the Office of the Attorney General's website at <http://www.oag.state.tx.us/open/20060725usdoe.pdf>.

Ref: ID# 486941

Enc. Submitted documents

c: Requestor
(w/o enclosures)