



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 17, 2013

Mr. W. Montgomery Meitler
Assistant Counsel
Office of Legal Services
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701-1494

OR2013-21925

Dear Mr. Meitler:

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# 508892 (TEA PIR# 20618).

The Texas Education Agency (the "agency") received a request for the following: 1) proposals submitted by the State Office of Administrative Hearings ("SOAH") for a specified request for proposals ("RFP"), 2) any contracts between the agency and SOAH under the specified RFP, and 3) any contracts between the agency and private attorneys under the specified RFP. You state the agency will release some information to the requestor. You further state the agency has redacted some information pursuant to the Family Educational Rights and Privacy Act ("FERPA"), section 1232g of title 20 of the United States Code.¹ Although you take no position as to whether the submitted information is excepted under the Act, you state release of this information may implicate the proprietary interests of SOAH. Accordingly, you state, and provide documentation showing, you notified SOAH of the request for information and of its right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.304. As of the date of this letter, we have received no comments from SOAH. We have reviewed the submitted information.

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>.

We note some of the submitted information may be subject to section 552.1175 of the Government Code.² Section 552.1175 protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential. *See* Gov't Code § 552.1175(b). Section 552.1175 applies, in part, to "peace officers as defined by Article 2.12, Code of Criminal Procedure[.]" *Id.* § 552.1175(a)(1). Some of the submitted information relates to an individual who was a licensed peace officer at the time the information at issue was created. However, we are unable to determine from the information provided if the individual at issue is currently a licensed peace officer. Thus, we must rule conditionally. Accordingly, to the extent the information at issue, which we have marked, relates to an individual who is currently licensed as a peace officer and who elects to restrict access to the information in accordance with section 552.1175(b), the agency must withhold the marked information under section 552.1175 of the Government Code. Conversely, if the individual whose information is at issue is not currently licensed as a peace officer or does not elect to restrict access to his information in accordance with section 552.1175(b), the marked information may not be withheld under section 552.1175. In either case, the agency must release the remaining information.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Kristi L. Wilkins
Assistant Attorney General
Open Records Division

KLW/bhf

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Ref: ID# 508892

Enc. Submitted documents

c: Requestor
(w/o enclosures)