



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 14, 2014

Ms. Priscilla Marquez  
Counsel for the Ysleta Independent School District  
ScottHulse, P.C.  
P.O. Box 99123  
El Paso, Texas 79999-9123

OR2014-06116

Dear Ms. Marquez:

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# 519609.

The Ysleta Independent School District (the "district"), which you represent, received a request for all documents contained in the requestor's file, as well as all documents concerning any complaints against the requestor for a specified period of time. You state you have released some information to the requestor. You state the district will redact and withhold information pursuant to the Family Educational Rights and Privacy Act ("FERPA"), section 1232g of title 20 of the United States Code.<sup>1</sup> You claim the submitted information is privileged under rule 503 of the Texas Rules of Evidence and rule 192.5 of the Texas Rules of Civil Procedure. We have considered your arguments and reviewed the submitted information.

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<sup>1</sup>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 purpose of our review in the open records ruling process under the Act. The DOE has determined that 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>.

Initially, we note Exhibit 4 is not responsive to the present request for information because it was created after the request for information was received. This ruling does not address the public availability of any information that is not responsive to the request, and the district need not release information in response to this request.<sup>2</sup>

Section 552.101 of the Government Code exempts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.”<sup>3</sup> Gov’t Code § 552.101. Section 552.101 encompasses section 21.048 of the Education Code, which addresses educator certification examinations. Section 21.048(c-1) provides:

The results of an examination administered under this section are confidential and are not subject to disclosure under [the Act], unless:

- (1) the disclosure is regarding notification to a parent of the assignment of an uncertified teacher to a classroom as required by Section 21.057; or
- (2) the educator has failed the examination more than five times.

Educ. Code § 21.048(c-1). Upon review, we find portions of the remaining information reflect the results of examinations administered under section 21.048 of the Education Code. We have no indication subsections 21.048(c-1)(1) and (2) are applicable in this instance. Accordingly, the district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 21.048(c-1) of the Education Code. The remaining information must be released.<sup>4</sup>

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<sup>2</sup>As we are able to make this determination, we need not address your rules 503 and 192.5 arguments against disclosure of this information.

<sup>3</sup>The 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).

<sup>4</sup>We note the information being released contains information to which the requestor has a right of access. *See* Gov’t Code § 552.023. Because such information may be confidential with respect to the general public, if the district receives another request for this information from a different requestor, the district must again seek a ruling from this office. Additionally, we note the information being released includes the requestor’s e-mail address to which he has a right of access. *See id.* § 552.137(b). Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including an e-mail address of a member of the public under section 552.137, without the necessity of requesting an attorney general decision. Accordingly, if the district receives another request from an individual other than this requestor, the district is authorized to withhold the e-mail address under section 552.137 without the necessity of requesting an attorney general decision.

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](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,

A handwritten signature in black ink that reads "Rashandra C. Hayes". The signature is fluid and cursive, with a long horizontal line extending to the right from the end of the name.

Rashandra C. Hayes  
Assistant Attorney General  
Open Records Division

RCH/dls

Ref: ID# 519609

Enc. Submitted documents

c: Requestor  
(w/o enclosures)