



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 17, 2014

Mr. John Sirman
Legal Counsel
State Bar of Texas
1414 Colorado Street
Austin, Texas 78701

OR2014-06430

Dear Mr. Sirman:

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# 519936.

The State Bar of Texas (the "state bar") received a request for the employment file of a named individual. You state you have released some information to the requestor. You claim the submitted information is excepted from disclosure under section 552.114 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.

The United States Department of Education Family Policy Compliance Office (the "DOE") 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 records for the purpose of our review in the open records ruling process under the

¹Although you initially raised section 552.101 of the Government Code as an exception to disclosure, you provided no arguments regarding the applicability of this section. Accordingly, we assume you no longer assert this section. See Gov't Code §§ 552.301, .302. Further, although you also claim section 552.026 of the Government Code, we note section 552.026 is not an exception to disclosure. Rather, section 552.026 provides the Act does not require the release of information contained in education records except in conformity with the Family Educational Rights and Privacy Act ("FERPA") of 1974. *Id.* § 552.026.

Act.² Consequently, education records that are responsive to a request for information under the Act should not be submitted 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 college transcripts. We note the state bar is not an educational agency or institution for purposes of FERPA. In this instance, however, you inform us the state bar obtained the transcripts from the educational institutions that created those documents. FERPA contains provisions that govern access to education records that were transferred by an educational agency or institution to a third party. Because our office is prohibited from reviewing education records, we will not address the applicability of FERPA to the information at issue. Likewise, we will not address section 552.114 of the Government Code. *See* Gov’t Code § 552.114 (excepting from disclosure “student records”); Open Records Decision No. 539 (1990) (determining the same analysis applies under section 552.114 of the Government Code and FERPA). Such determinations under FERPA must be made by the educational authorities from which the education records were obtained. Thus, the state bar must contact any educational institutions from which the transcripts were obtained and the DOE regarding the applicability of FERPA to the submitted documents.

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,



Britni Fabian
Assistant Attorney General
Open Records Division

BF/tch

²A copy of this letter may be found on the Office of the Attorney General’s website: http://www.oag.state.tx.us/opinopen/og_resources.shtml.

Ref: ID# 519936

Enc. Submitted documents

c: Requestor
(w/o enclosures)