



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 1, 2014

Ms. Jeanne C. Collins
General Counsel
El Paso Independent School District
6531 Boeing Drive
El Paso, Texas 79925

OR2014-11334

Dear Ms. Collins:

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# 527517 (EPISD ORR No. 2014.138).

The El Paso Independent School District (the "district") received a request for a specified investigation file. You inform us you have released some information to the requestor. You also inform us you have redacted student-identifying information pursuant to the Family Educational Rights and Privacy Act ("FERPA"), section 1232g of title 20 of the United States Code.¹ You claim the submitted information is excepted from disclosure under sections 552.101 and 552.135 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.135 of the Government Code provides the following:

¹The 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>.

(a) "Informer" means a student or former student or an employee or former employee of a school district who has furnished a report of another person's or persons' possible violation of criminal, civil, or regulatory law to the school district or the proper regulatory enforcement authority.

(b) An informer's name or information that would substantially reveal the identity of an informer is excepted from [required public disclosure].

Gov't Code § 552.135. We note the legislature limited the protection of section 552.135 to the identity of a person who reports a possible violation of civil, criminal, or regulatory law. *See id.* § 552.301(e)(1)(A). Additionally, individuals who provide information in the course of an investigation, but do not make the initial report are not informants for purposes of section 552.135 of the Government Code. In this instance, some of the information at issue reveals the identity of an individual who reported a possible violation of law to the district. Upon review, we find the district employee who initially reported the allegations to district administrators is the informer. You do not indicate any of the exceptions in section 552.135(c) apply. *See id.* § 552.135(c) (listing exceptions to section 552.135(b) of the Government Code). Accordingly, the district must withhold the information we have marked under section 552.135 of the Government Code.² However, we find you have failed to demonstrate any of the remaining information identifies an informer for purposes of section 552.135. Accordingly, the district may not withhold any of the remaining information under section 552.135 of the Government Code.

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. This exception encompasses information made confidential by other statutes, including section 261.201 of the Family Code. Section 261.201 provides in relevant part:

(a) [T]he following information is confidential, is not subject to public release under [the Act] and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report[.]

Fam. Code § 261.201(a)(1); *see id.* §§ 101.003(a) (defining "child" for purposes of chapter 261 of the Family Code as person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes), 261.001(1)(E) (defining "abuse" for purposes of chapter 261 of the Family Code).

²As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

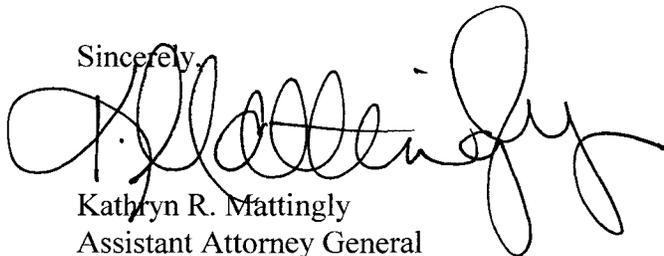
Upon review, we find none of the remaining information constitutes a report of alleged or suspected abuse or neglect nor contains the identity of an individual who made a report of alleged or suspected child abuse or neglect. Therefore, none of the remaining information may be withheld under section 552.101 of the Government Code in conjunction with section 261.201(a)(1) of the Family Code.

In summary, the district must withhold the information we have marked under section 552.135 of the Government Code. The district 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,



Kathryn R. Mattingly
Assistant Attorney General
Open Records Division

KRM/bhf

Ref: ID# 527517

Enc. Submitted documents

c: Requestor
(w/o enclosures)