



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 19, 2015

Ms. Jeanne C. Collins  
General Counsel for the Legal and Legislative  
El Paso Independent School District  
Affairs Office  
P.O. Box 20100  
El Paso, Texas 79998-0100

OR2015-05297

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# 559757 (EPISD ORR# 2015.25).

The El Paso Independent School District (the "district") received a request for the requestor's human resources files. The district states it is redacting some information pursuant to the Family Educational Rights and Privacy Act ("FERPA"), section 1232g of title 20 of the United States Code.<sup>1</sup> The district states it will provide some of the requested information to the requestor, but claims some of the submitted information is excepted from disclosure

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<sup>1</sup>The 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>.

under section 552.135 of the Government Code. We have considered the claimed exception and reviewed the submitted information.<sup>2</sup>

Section 552.135 of the Government Code provides, in part, the following:

(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(a)-(b). Because the legislature limited the protection of section 552.135 to the identity of a person who reports a possible violation of "law," a school district that seeks to withhold information under this exception must clearly identify to this office the specific civil, criminal, or regulatory law that is alleged to have been violated. *See id.* §§ 552.135, .301(e)(1)(A). Additionally, individuals who provide information in the course of an investigation, but do not report a violation of law, are not informants for the purposes of section 552.135 of the Government Code. Thus, section 552.135 protects the identity of an informer but does not protect witness information or statements. You state the information you have marked under section 552.135 identifies two employees who reported possible violations of section 247.2 of title 19 of the Texas Administrative Code. Upon review, we conclude the district must withhold the information identifying one of these employees, which we have marked, under section 552.135 of the Government Code. However, we find the district has failed to demonstrate the other employee is an informer for purposes of section 552.135. Therefore, the district may not withhold the information pertaining to the other employee on that ground. Accordingly, the district must release the remaining information to the requestor.

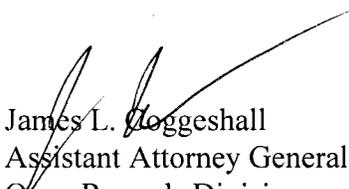
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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<sup>2</sup>Although the district raises section 552.101 of the Government Code, it has not submitted arguments explaining how this exception applies to the submitted information. Therefore, we presume the district no longer asserts this exception. *See* Gov't Code §§ 552.301, .302. In addition, we note the district has failed to establish it complied with the requirements of section 552.301 of the Government Code. *See* Gov't Code § 552.301(b), (e). Nevertheless, section 552.135 of the Government Code is a mandatory exception that can provide a compelling reason to overcome the presumption of openness caused by a failure to comply with section 552.301. *See id.* §§ 552.007, .302. Thus, we will consider the district's claim under that section.

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,



James L. Goggeshall  
Assistant Attorney General  
Open Records Division

JLC/cbz

Ref: ID# 559757

Enc. Submitted documents

c: Requestor  
(w/o enclosures)