



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

June 6, 1996

Mr. Darrell Corzine  
McMahon, Tidwell, Hansen, Atkins & Peacock, P.C.  
P.O. Box 1331  
Odessa, Texas 79760

OR96-0899

Dear Mr. Corzine:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 100312 (previously ID# 33776).

The Ector County Independent School District (the "school district"), which you represent, received a request for "a copy of all information kept by the school district in its personnel files regarding a certain individual teacher."<sup>1</sup> You contend that the teacher evaluations are exempted from required public disclosure under section 552.111 of the Government Code.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."<sup>2</sup> This section

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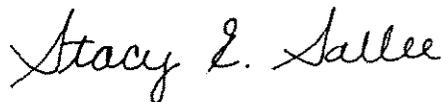
<sup>1</sup>Although the school district contends the request is for the entire personnel file of a specific teacher, the request letter merely indicates the requestor wants records or information relating to C. Washington. We note, however, that despite the fact that the district apparently objects only to the release of the teacher evaluations, personnel files often contain information that is confidential by law. 26 U.S.C. § 6103(a) (tax return information); Gov't Code §§ 552.024, .117 (home address and telephone number of public employees); Attorney General Opinion H-1274 (1978) (tax returns); Open Records Decision Nos. 600 (1992) (W-4 Form), 226 (1979) (W-2 forms). Releasing confidential information is a misdemeanor, Gov't Code § 552.352, as is the failure to provide access to public information, *id.* § 552.353.

<sup>2</sup>The Office of the Attorney General will raise section 552.101 on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

encompasses information protected by other statutes. In the last legislative session, Senate Bill 1 was passed, which added section 21.355 to the Education Code. Section 21.355 provides, "Any document evaluating the performance of a teacher or administrator is confidential." This office recently interpreted this section to apply to any document that evaluates, as that term is commonly understood, the performance of a teacher or administrator. Open Records Decision No. 643 (1996). We enclose a copy of Open Records Decision No. 643 (1996) for your information. In that opinion, this office also concluded that a teacher is someone who is required to hold and does hold a certificate or permit required under chapter 21 of the Education Code and is teaching at the time of his or her evaluation. *Id.* Similarly, an administrator is someone who is required to hold and does hold a certificate required under chapter 21 of the Education Code and is administering at the time of his or her evaluation. *Id.* Based on the reasoning set out in Open Records Decision No. 643 (1996), we conclude that the documents submitted to this office as Exhibit "B" are confidential under section 21.355 of the Education Code. Therefore, pursuant to section 552.101 of the Government Code, the school district must withhold these documents.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee  
Assistant Attorney General  
Open Records Division

SES/ch

Ref.: ID# 100312 (previously ID# 33776)

Enclosures: Open Records Decision No. 643 (1996)  
Submitted documents

cc: Mr. Robert Russell  
6212 W. Papow  
Odessa, Texas 79763  
(w/o enclosure; w/Open Records Decision No. 643 (1996))