



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 13, 1996

Ms. Merri Schneider-Vogel
Bracewell & Patterson, L.L.P.
South Tower Pennzoil Place
711 Louisiana Street, Suite 2900
Houston, Texas 77002-2781

OR96-0948

Dear Ms. Schneider-Vogel:

On behalf of the Lamar Consolidated Independent School District (the "school district"), you ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 39837.

The school district received a request for numerous items of information. You assert that the evaluations of Michael Zolkoski, the school district superintendent, and Don Levinski, a school district principal, are excepted from required public disclosure pursuant to section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code.

Section 552.101 of the Government Code excepts from required public disclosure information that is confidential by law, including information that is protected by statute. Section 21.355 provides, "A document evaluating the performance of a teacher or administrator is confidential." For purposes of section 21.355, an "administrator" is a person who is required to hold and does in fact hold an administrator's certificate under subchapter B of chapter 21, and who is performing the functions of an administrator, as that term is commonly defined, at the time of the evaluation. *See* Open Records Decision No. 643 (1996). To "administer" is "to manage or supervise the execution, use, or conduct of" "to perform the office of administrator." *See id.*

A principal is an administrator for purposes of section 21.355. *See id.* Accordingly, the school district must withhold from disclosure Mr. Levinski's evaluation. We believe a school district superintendent performs the functions of an administrator, as that term is commonly defined. Thus, if Mr. Zolkoski is required to hold and does in fact

hold an administrator's certificate under subchapter B of chapter 21 of the Education Code, the school district must also withhold from disclosure his evaluation under section 21.355 of the Education Code and section 552.101 of the Government Code. *See id.* On the other hand, if Mr. Zolkoski is not required to or does not in fact hold an administrator's certificate, the school district may not withhold his evaluation based on section 21.355.

We are resolving this matter with this 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 may 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,



Kay Guajardo
Assistant Attorney General
Open Records Division

KHG/rho

Ref.: ID# 39837

Enclosures: Submitted documents

cc: Ms. Karen LaFleur
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