



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 22, 1997

Mr. William C. Bednar
Attorney at Law
712 West 14th Street, Suite A
Austin, Texas 78701-1708

OR97-0114

Dear Mr. Bednar:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 103203.

The Lake Travis Independent School District (the "district"), which you represent, received a request for, among other things,¹ copies of Superintendent Gloria Berry's last two annual performance evaluations and supporting documentation. You have submitted responsive documents to this office for review. On behalf of the district you contend that these documents are excepted from disclosure under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section 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). 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 are confidential under section 21.355 of the Education Code. Therefore, pursuant to section 552.101 of the Government Code, the district must withhold these documents from disclosure.

¹You state that the district considers the other material requested to be public information. Thus, the district has made the other information available to the requestor.

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 any questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref: ID# 103203

Enclosures: Submitted documents

cc: Mr. Boyd Graves
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(w/o enclosures)