



November 28, 2001

Mr. Leland Williams
Superintendent
Dickinson I.S.D.
P.O. Box Z
Dickinson, Texas 77539

OR2001-5525

Dear Mr. Williams:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 155349.

The Dickinson Independent School District (the "school district") received a request for:

- (1) "Salary Schedule and or data on salaries for all Principals, Assistant Principals, Teacher Facilitators, Head Band Directors, Curriculum Coordinators, Superintendent, Deputy Superintendents, and administrators at the Gillies Administration Building for the previous year (2000-2001) and for the current year, (2001-2002);" and
- (2) "a copy of the OHI reports for the previous year from all campuses/departments, which filed the reports."

You claim that the requested Organizational Health Inventory ("OHI") may be confidential under section 21.355 of the Education Code.¹ We have considered your argument and reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law,² either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 21.355 of the Education Code provides, "A document evaluating the performance of a teacher or administrator is confidential." This

¹Because you seek to withhold only information responsive to the second category of the request, we assume you have released information responsive to the request for salary information. To the extent you have not release this information, you must do so now. Gov't Code §§ 552.021, .022(a)(2), .221, .301, .302.

office 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.*

Although you contend that the OHI is confidential under section 21.355 because it consists of an evaluative document, we have reviewed the submitted OHI and find that it does not evaluate the "performance of a teacher or administrator." Furthermore, the district has not explained how the OHI evaluates a specific teacher or administrator. Therefore, we find that the submitted information is not confidential under section 21.355 of the Education Code, and it must be released.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

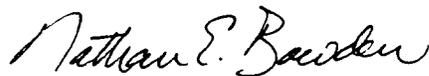
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Nathan E. Bowden
Assistant Attorney General
Open Records Division

NEB/sdk

Ref: ID# 155349

Enc: Submitted documents

c: Ms. Susan Wilcox
P.O. Box 1002
League City, Texas 77574
(w/o enclosures)