ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 1, 2006

Ms. Mia M. Martin
General Counsel
Richardson Independent School District
Office of the General Counsel
400 South Greenville Avenue
Richardson, Texas 75081-4198

OR2006-10247

Dear Ms. Martin:

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# 258644.

The Richardson Independent School District (the "district") received a request for the personnel file of a named individual, including information pertaining to commendations, reprimands, complaints, grievances, lawsuits, and investigative reports. You inform us that the district is making some of the responsive information available to the requestor, but you claim that the submitted information is excepted from disclosure under sections 552.101 and 552.102 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information made confidential by other statutes. Section 21.355 of the Education Code provides that "[a] document evaluating the performance of a teacher or administrator is confidential." Educ. Code § 21.355. In Open Records Decision No. 643 (1996), this office interpreted this section to apply to any document that evaluates, as that term is commonly understood, the performance of a teacher or administrator. *See* ORD 643. 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.*

at 4. 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.*

You state that the submitted documents are evaluations of a former district principal who holds both teacher and administrator certifications. Based on the reasoning set out in Open Records Decision No. 643 and our review of the submitted arguments and information, we conclude that the submitted information is made confidential under section 21.355 of the Education Code and must be withheld under section 552.101 of the Government Code on that basis. As we reach this conclusion, we need not address your remaining argument against disclosure.

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 ten 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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 Office of the Attorney General 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 ten calendar days of the date of this ruling.

Sincerely,

Robert B. Rapfogel
Assistant Attorney General
Open Records Division

RBR/eb

Ref: ID# 258644

Enc. Submitted documents

c: Ms. Kristine Hughes
1410 East Renner Road, Suite 260
Richardson, Texas 75082
(w/o enclosures)