



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 3, 2009

Ms. Carolyn Hanahan
General Counsel
Fort Bend Independent School District
16431 Lexington Boulevard
Sugar Land, Texas 77479

OR2009-04383

Dear Ms. Hanahan:

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# 342899.

The Fort Bend Independent School District (the "district") received a request for information pertaining to a named former employee from a specified time period. You state you are releasing some information to the requestor. You claim that the submitted documents are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception 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. Section 552.101 encompasses section 21.355 of the Education Code, which provides, "[a] document evaluating the performance of a teacher or administrator is confidential." Educ. Code § 21.355. This office has 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 decision, we 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.*

In this instance, you assert that the documents at issue, including the memoranda of reprimand, are subject to section 21.355 of the Education Code. We assume that the employee named in the present request was serving the district as a certified educator at the time the submitted memoranda were written. Given that assumption, and based on our review of the information at issue, we agree that the submitted documents are subject to section 21.355. *See N. E. Indep. School Dist. v. Abbot*, 212 S.W.3d 364 (Tex. App.—Austin 2006, no pet.) (providing that memorandum of reprimand constitutes a teacher evaluation subject to section 21.355 because “it reflects the principal’s judgment regarding [a teacher’s] actions, gives corrective direction, and provides for further review.”). Accordingly, these documents must be withheld under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code.

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

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Reg Hargrove
Assistant Attorney General
Open Records Division

RJH/eeg

Ref: ID# 342899

Enc. Submitted documents

c: Requestor
(w/o enclosures)