



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 12, 2009

Ms. Laura C. Rodriguez
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P.O. Box 460606
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OR2009-08140

Dear Ms. Rodriguez:

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# 345785.

The Poteet Independent School District (the "district"), which you represent, received a request for (1) any University Scholastic League violations regarding a named coach from the time of his employment with the district until March 26, 2009; (2) any complaints or grievances filed against the coach during the same time period; and (3) growth plans implemented by the district regarding the coach. You indicate that the district is releasing some of the responsive information. You claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.¹

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 protected by other statutes, including section 21.355 of the Education Code which provides that "[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. *See* Open Records Decision No. 643 (1996). In Open Records Decision No. 643, we concluded that a "teacher" for

¹You state that the district has redacted information pursuant to the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g. We note our office is prohibited from reviewing these education records to determine whether appropriate redactions under FERPA have been made. Therefore, we will not address the applicability of FERPA to any of the submitted information, except to note that parents have a right of access to their own child's education records. *See* 20 U.S.C. § 1232g(a)(1)(A).

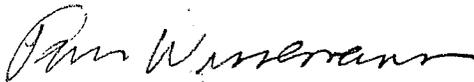
purposes of section 21.355 means a person who (1) is required to, and does in fact, hold a certificate or permit required under chapter 21 of the Education Code and (2) is teaching at the time of his or her evaluation. *See id.* In addition, the Third Court of Appeals has held that a written reprimand constitutes an evaluation for purposes of section 21.355 because "it reflects the principal's judgment regarding [a teacher's] actions, gives corrective direction, and provides for further review." *North East Indep. Sch. Dist. v. Abbott*, 212 S.W.3d 364 (Tex. App.—Austin 2006, no pet.).

You contend that the submitted growth plan and letters from supervisors consist of evaluative information regarding a teacher and should therefore be withheld from disclosure under section 21.355. You state, and provide documentation showing, that the coach in question is a certified educator. Upon review, we conclude that one of the submitted documents consists of an evaluation subject to section 21.355 of the Education Code. Therefore, the district must withhold this document, which we have marked, pursuant to section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code. However, we find that the remaining information at issue does not consist of evaluations or written reprimands as contemplated by section 21.355 of the Education Code. *See* Educ. Code § 21.353 (teachers shall be appraised only on basis of classroom teaching performance and not in connection with extracurricular activities). Accordingly, the district may not withhold any of the remaining information under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code. As you raise no other exceptions against disclosure, the remaining information must be released.

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,



Pamela Wissemann
Assistant Attorney General
Open Records Division

PFW/jb

Ref: ID# 345785

Enc. Submitted documents

c: Requestor
(w/o enclosures)