



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 10, 2010

Mr. Gary Allmon Grimes
Schuerenberg & Grimes, P.C.
For Mesquite Independent School District
120 West Main, Suite 201
Mesquite, Texas 75149

OR2010-03479

Dear Mr. Grimes:

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# 373213.

The Mesquite Independent School District (the "district"), which you represent, received two requests from the same requestor for three items relating to a specified performance review. You claim 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.

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 information protected by other statutes, such as section 21.355 of the Education Code. Section 21.355 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. Open Records Decision No. 643 (1996). In that opinion, this office concluded 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 assert the submitted information consist of evaluations subject to section 21.355. You state, and the submitted information reflects, the individual at issue holds an administrator's certificate

required under chapter 21 of the Education Code. Upon review, we conclude that some of the submitted documents are evaluations of an administrator made confidential by section 21.355 of the Education Code. Therefore, the district must withhold these documents, which we have marked, under section 552.101 of the Government Code. However, you have failed to demonstrate how the remaining information consists of evaluations as contemplated by section 21.355 of the Education Code. 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 further exception to the disclosure of the remaining information, it 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, toll free, at (888) 672-6787.

Sincerely,



Matt Entsminger
Assistant Attorney General
Open Records Division

MRE/rl

Ref: ID# 373213

Enc. Submitted documents

c: Requestor
(w/o enclosures)