



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

June 30, 2010

Mr. Deron Robinson
Henslee Schwartz, L.L.P.
Attorneys for Stamford Independent School District
306 West 7th Street, Suite 1045
Fort Worth, Texas 76102

OR2010-09678

Dear Mr. Robinson:

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# 384900.

The Stamford Independent School District (the "district"), which you represent, received a request for nine categories of information relating to personnel, employment, and benefits for certain individuals at the district. You state that you will release some of the requested information with redactions pursuant to the Family Educational Rights and Privacy Act ("FERPA"), section 1232g of title 20 of the United States Code.¹ You claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered your argument 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). This office has determined that the word "administrator" in section 21.355 means a person who is required to and does in fact hold an administrator's certificate under subchapter B of chapter 21 of the Education

¹The Department of Education has informed this office that it is the responsibility of the educational agency or institution to make determinations under FERPA. A copy of the Department of Education's letter may be found on the Office of the Attorney General's website at <http://www.oag.state.tx.us/open/20060725usdoe.pdf>.

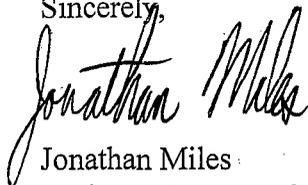
Code and is performing the functions of an administrator, as that term is commonly defined, at the time of the evaluation. *Id.*

You seek to withhold the submitted evaluations of the superintendent which were performed by the district's board of trustees. However, you do not state or provide documentation showing that the superintendent held an administrator's certificate under subchapter B of chapter 21 of the Education Code and was performing the functions of an administrator at the time of the evaluations. Thus, if the superintendent at issue held an administrator's certificate and was performing the functions of an administrator at the time of the evaluations, the submitted information is confidential under section 21.355, and must be withheld under section 552.101 of the Government Code. To the extent that the administrator does not satisfy these criteria, the submitted information is not confidential under section 552.101 in conjunction with section 21.355 and 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,



Jonathan Miles
Assistant Attorney General
Open Records Division

JM/jb

Ref: ID# 384900

Enc. Submitted documents

c: Requestor
(w/o enclosures)