



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 2, 2010

Mr. John A. Kazen
Kazen, Meurer & Perez, L.L.P.
P.O. Box 6237
Laredo, Texas 78042-6237

OR2010-16585

Dear Mr. Kazen:

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# 398798.

The Laredo Independent School District (the "district"), which you represent, received a request for the DVD version of a specified July 21, 2010 meeting and a written copy of a specified evaluation. 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

Initially, we note that the submitted documents include an agenda of a public meeting of the district's Board of Trustees (the "board"). The agendas and minutes of a governmental body's public meetings are specifically made public under the Open Meetings Act, chapter 551 of the Government Code. *See* Gov't Code § 551.022 (minutes and tape recordings of open meeting are public records and shall be available for public inspection and copying upon request). Accordingly, the submitted agenda of a public district board meeting must be released in accordance with the Open Meetings Act.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. Section 552.101 encompasses information protected by other statutes, such as

¹We assume that the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

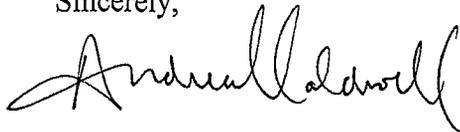
section 21.355 of the Education Code. Section 21.355 provides “[a] document evaluating the performance of a teacher or administrator is confidential.” Educ. Code § 21.355. This office has interpreted this section to apply to any document that evaluates, as that term is commonly understood, the performance of a teacher or administrator. Open Records Decision No. 643 (1996). In that opinion, this office also concluded an administrator is someone who is required to hold and does hold an administrator’s certificate under subchapter B of chapter 21 of the Education Code and is performing the functions of an administrator, as the term is commonly defined, at the time of his or her evaluation. *Id.*

You contend that the submitted information constitutes confidential evaluations of the superintendent by the board. You inform us that the superintendent to whom the submitted information relates was a certified administrator at the time the evaluations were prepared. Upon review of the information at issue, we conclude most of the submitted information is confidential under section 21.355 of the Education Code and must be withheld under section 552.101 of the Government Code on that basis. However, we find you have failed to demonstrate how the remaining information, which consists of an evaluation summary created by the superintendent, constitutes an evaluation for the purpose of section 21.355 of the Education Code. Accordingly, with the exception of the information we marked for release, which includes the board’s meeting agenda and the superintendent’s evaluation summary, the district may withhold the submitted information 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, toll free at (888) 672-6787.

Sincerely,



Andrea L. Caldwell
Assistant Attorney General
Open Records Division

ALC/eeg

Ref: ID# 398798

Enc. Submitted documents

c: Requestor
(w/o enclosures)