



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 5, 2010

Ms. Sara Hardner Leon
Powell & Leon, L.L.P.
1706 West Sixth Street
Austin, Texas 78703

OR2010-16822

Dear Ms. Leon:

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# 399206.

The Austin Independent School District (the "district"), which you represent, received a request for the completed evaluation of the district's superintendent. 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.

Initially, we note in her request for information, the requestor argues the requested information is subject to section 552.022(a)(1) of the Government Code. Section 552.022(a)(1) provides a completed evaluation is not excepted from required disclosure under the Act, unless the completed evaluation is expressly confidential under other law. See Gov't Code § 552.022(a)(1). Section 552.101 of the Government Code is a mandatory exception, and thus it constitutes "other law" for purposes of section 552.022. *Id.* § 552.022. Because the district raises only section 552.101, we need not address the requestor's contention the submitted information is subject to section 552.022(a)(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." *Id.* § 552.101. This exception encompasses information other statutes make confidential, such as 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. In Open Records Decision No. 643 (1996), this office interpreted section 21.355 to apply to any

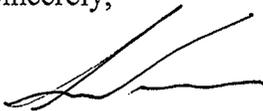
document that evaluates, as that term is commonly understood, the performance of a teacher or an administrator. *See* ORD 643 at 3. Additionally, we determined that for the purposes of section 21.355, the word “administrator” means a person who is required to and does in fact hold an administrator’s certificate under subchapter B of chapter 21 of the Education Code, and is performing the functions of an administrator, as that term is commonly defined, at the time of the evaluation. *See id.* at 4.

You assert the submitted evaluation of the superintendent by the district’s Board of Trustees is confidential pursuant to section 21.355. You inform us, and provide documentation showing, the superintendent was a certified administrator at the time the evaluation was prepared. You further state the superintendent was performing the functions of an administrator at the time of the evaluation. Upon review, we agree the submitted evaluation is confidential under section 21.355 and the district must withhold it under section 552.101 on that basis.

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,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/eeg

Ref: ID# 399206

Enc. Submitted documents

c: Requestor
(w/o enclosures)