



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 23, 2010

Ms. Julie Fort  
Strasburger & Price, LLP  
2801 Network Boulevard, Suite 600  
Frisco, Texas 75034

OR2010-17720

Dear Ms. Fort:

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# 401006.

The Rockwall Independent School District (the "district"), which you represent, received a request for 2009-2010 Parent Survey and Teacher Survey results for Dorris Jones Elementary School. You state you have provided some information to the requestor. You also state the district has redacted student-identifying information pursuant to the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g.<sup>1</sup> You claim that portions of the submitted information are 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. This exception encompasses information made confidential by statute. Section 21.355 of the Education Code provides that "[a] document evaluating the

---

<sup>1</sup>The United States Department of Education Family Policy Compliance Office (the "DOE") has informed this office that FERPA does not permit state and local educational authorities to disclose to this office, without parental consent, unredacted, personally identifiable information contained in education records for the purpose of our review in the open records ruling process under the Act. The DOE has determined that FERPA determinations must be made by the educational authority in possession of the education records. We have posted a copy of the letter from the DOE to this office on the Attorney General's website: <http://www.oag.state.tx.us/open/20060725usdoe.pdf>.

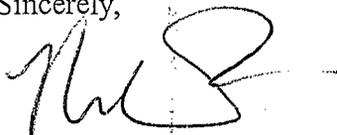
performance of a teacher or administrator is confidential.” Educ. Code § 21.355. This office has interpreted section 21.355 to apply to any document that evaluates, as that term is commonly understood, the performance of a teacher or administrator. *See* Open Records Decision No. 643 (1996). In Open Records Decision No. 643, we determined that for purposes of section 21.355, the word “teacher” means a person who is required to, and does in fact hold, a teaching certificate under subchapter B of chapter 21 of the Education Code and who is engaged in the process of teaching, as that term is commonly defined, at the time of the evaluation. *See id.* at 4. Similarly, 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.* We note that under chapter 21 of the Education Code, a person employed as a librarian, counselor, education aide, or nurse is required to hold the appropriate certificate, permit, or state-issued license. *See* Educ. Code § 21.003.

You contend that some of the submitted survey responses provided by district staff members and parents evaluate the job performances of district administrators and teachers. However, the comments of the staff and parents cannot be categorized or perceived as an evaluation of the performance of a principal or any other district teacher or administrator. Thus, we conclude the information you seek to withhold is not confidential under section 21.355 of the Education Code, and may not be withheld under section 552.101 on this basis. As you raise no further exceptions to disclosure of this information, it must be released to the requestor.

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](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,



Nneka Kanu  
Assistant Attorney General  
Open Records Division

NK/em

Ms. Julie Fort - Page 3

Ref: ID# 401006

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)