



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 28, 2011

Ms. Ylise Janssen
Senior School Law Attorney
Austin Independent School District
1111 West Sixth Street, Room A-240
Austin, Texas 78703-5399

OR2011-01514

Dear Ms. Janssen:

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# 409342.

The Austin Independent School District (the "district") received a request for documents related to "Notification of Supervisor of Employee Relations regarding employees in possible contractual difficulty" from four named district middle schools. You claim the requested 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." This section encompasses information protected by other statutes. Section 21.355 of the Education Code provides "[a] document evaluating the performance of a teacher or administrator is confidential." Additionally, the court has concluded that a written reprimand constitutes an evaluation for purposes of section 21.355 as it "reflects the principal's judgment regarding [a teacher's] actions, gives corrective direction, and provides for further review." *North East Indep. Sch. Dist. v. Abbott*, 212 S.W.3d 364 (Tex. App.—Austin 2006, no pet.). 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. *See* Open Records Decision No. 643 at 3 (1996). We also determined a "teacher" for purposes of section 21.355 means a person who (1) is required to and does in fact hold a teaching certificate under subchapter B of chapter 21 of the Education Code or a school district teaching permit under section 21.055 and (2) is engaged in the process of teaching, as that term is commonly defined, at the time of the evaluation. *See id.* at 4.

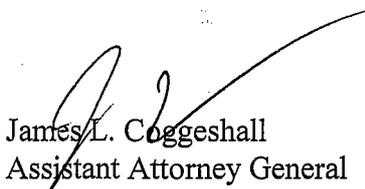
You state the submitted information consists of communications from school principals to the district's Supervisor of Employee Relations that list the names of teachers who are

considered to be “employees in *potential* contractual difficulty[.]” You also state the school principals provided these names to the district’s Supervisor of Employee Relations in order to identify employees in need of assistance as part of the district’s Professional Development and Appraisal System (“PDAS”). You also state the purpose of having the principals provide lists of such names “is to assist campus administrators in identifying teachers early in the school year who need their support within the PDAS process.” However, after review of your representations and the information at issue, we find you have failed to demonstrate how the submitted information consists of “[a] document evaluating the performance of a teacher or administrator” as contemplated by section 21.355. Educ. Code § 21.355. Therefore, we conclude you have not established the submitted information is confidential under section 21.355, and the district may not withhold it under section 552.101 on that ground. Accordingly, the district must release the submitted information 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, 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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tf

Ref: ID# 409342

Enc. Submitted documents

c: Requestor
(w/o enclosures)