



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 11, 2011

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

OR2011-02123

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# 408916.

The Austin Independent School District (the "district") received a request for (1) all Observation Summaries and Walk-Through Feedback forms prepared by a named employee at LBJ High School, (2) all intervention plans prepared by the same employee for any teacher at LBJ High School, and (3) any documents revealing the names of appraisers at LBJ High School and the teachers assigned to each appraiser for evaluation purposes. You state the district released some information to the requestor. You claim the submitted information is exempted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, we note the requestor specifically excludes identifying information of teachers from his request. Thus, such information is not responsive to the present request. This ruling does not address the public availability of any information that is not responsive to the request, and the district is not required to release that information in response to the request.

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 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." Educ. Code § 21.355. This office has

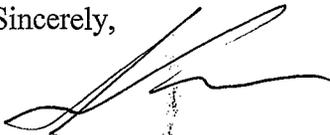
interpreted section 21.355 to apply to any document that evaluates, as that term is commonly understood, the performance of a teacher or administrator. *See* Open Records Decision No. 643 (1996). For the purposes of section 21.355, a teacher is someone who is required to, and does in fact, hold a teaching certificate or permit required under chapter 21 of the Education Code and who is engaged in the process of teaching at the time of the evaluation. *See id.* at 4.

You contend the responsive information, consisting of Observation Summaries and Walk-Through Feedback forms, constitutes evaluations for the purposes of section 21.355 of the Education Code. You state, and provide documentation showing, the teachers at issue held the appropriate certificates under subchapter B of chapter 21 of the Education Code at the time of the evaluations. Upon review, we agree the responsive information constitutes teacher evaluations for purposes of section 21.355. Accordingly, the district must withhold the responsive information under section 552.101 in conjunction with section 21.355.

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# 408916

Enc. Submitted documents

c: Requestor
(w/o enclosures)