



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 17, 2011

Ms. Ylise Janssen
Senior School Law Attorney
Austin Independent School District
1111 West Sixth Street, Suite A240
Austin, Texas 78703-5339

OR2011-06947

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# 422305.

The Austin Independent School District (the "district") received a request for personnel information pertaining to a named teacher and three categories of information pertaining to reduction in force, the district's decision to declare financial exigency, and program change and/or reorganization. You state the district has released the majority of documents responsive to the request. You claim that the responsive performance evaluations are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.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." Gov't Code § 552.101. This section encompasses information protected by other statutes, 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. This office has interpreted section 21.355 to apply to any document that evaluates, as that term is

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.

commonly understood, the performance of a teacher or an administrator. *See* Open Records Decision No. 643 (1996). In that decision, we concluded a “teacher” for purposes of section 21.355 means a person who is required to and does in fact hold a certificate or permit required under chapter 21 of the Education Code and is teaching at the time of his or her evaluation. *Id.* at 4. 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 chapter 21 of the Education Code, and is performing the functions of an administrator at the time of the evaluation. *Id.* at 4.

You state the submitted information consists of performance evaluations of teachers and administrators by the district. You inform us the teachers and administrators at issue held the required certification and were acting as a teacher or administrator at the time the evaluations were prepared. Upon review, we conclude the submitted information constitutes confidential evaluations of teachers and administrators, and as such, must be withheld under section 21.355 of the Education Code in conjunction with section 552.101 of the Government 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,



Laura Ream Lemus
Assistant Attorney General
Open Records Division

LRL/em

Ref: ID# 422305

Enc. Submitted documents

c: Requestor
(w/o enclosures)