



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 13, 2011

Mr. S. Anthony Safi
Mounce, Green, Myers, Safi, Paxson & Galatzan
P.O. Box 1977
El Paso, Texas 79999-1977

OR2011-14897

Dear Mr. Safi:

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# 433122 (EPISD ORR #2011-252).

The El Paso Independent School District (the "district"), which you represent, received a request for (1) all test scores for the past five years at El Paso High School and (2) any disciplinary reports and records of a growth plan regarding a named administrator. You state some of the requested information either has been or will be released. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.102 of the Government Code.¹ We have considered the exceptions you claim and reviewed the information you submitted.

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 other statutes make confidential. You claim section 552.101 in conjunction with section 21.355 of the Education Code, which provides in part that "[a] document evaluating the performance of a teacher or administrator is confidential." *See* Act of May 25, 2011, 82nd Leg., R.S., H.B. 2971, § 1 (to be codified at Educ. Code § 21.355(a)). 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 an administrator. *See* Open Records Decision No. 643 (1996). We have determined the word "administrator" in section 21.355 means a person who is required to and does in fact

¹We note the district notified the principal concerned of his right to submit comments to our office as to why the submitted information should or should not be released. *See* Gov't Code § 552.304. As of the date of this decision, we have received no correspondence from the principal.

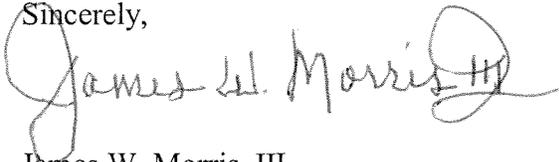
hold an administrator's certificate under subchapter B of chapter 21 of the Education Code and is performing the functions of an administrator, as that term is commonly defined, at the time of the evaluation. *See* ORD 643 at 4. The Third Court of Appeals has concluded a written reprimand constitutes an evaluation for purposes of section 21.355, because "it reflects the principal's judgment regarding [a teacher's] actions, gives corrective direction, and provides for further review." *See North East Indep. Sch. Dist. v. Abbott*, 212 S.W.3d 364 (Tex. App.—Austin 2006, no pet.).

You contend the submitted information is confidential in its entirety under section 21.355. You state the information at issue pertains to a high school principal employed by the district who was required to and did hold the appropriate certification, and who was functioning as an administrator, during the relevant time period. Based on your representations and our review, we find the information at issue is confidential under section 21.355 of the Education Code. We therefore conclude the district must withhold the submitted information on that basis under section 552.101 of the Government Code. As we are able to make this determination, we need not address the other exception you claim.

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 W. Morris, III
Assistant Attorney General
Open Records Division

JWM/em

Ref: ID# 433122

Enc: Submitted documents

c: Requestor
(w/o enclosures)