



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 13, 2012

Mr. W. Montgomery Meitler
Assistant Counsel
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701

OR2012-00680

Dear Mr. Meitler:

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# 442273 (TEA PIR# 16440).

The Texas Education Agency (the "agency") received a request for the testing dates and test results of a named individual for a specified time period, as well as all invoices or receipts sent to the named individual during the same specified time period. You state you do not maintain the requested invoices or receipts.¹ You claim that a portion of the submitted 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.

You have marked a portion of the submitted information as non-responsive to the request. This ruling does not address the public availability of non-responsive information, and the agency is not required to release non-responsive information in response to this 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." This section encompasses information protected by other statutes, including section 21.048 of the Education Code, which addresses teacher certification examinations. Section 21.048(c-1) provides the following:

¹In responding to a request for information under the Act, a governmental body is not required to disclose information that did not exist at the time the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990).

(c-1) The results of an examination administered under this section are confidential and are not subject to disclosure under Chapter 552, Government Code, unless:

- (1) the disclosure is regarding notification to a parent of the assignment of an uncertified teacher to a classroom as required by Section 21.057; or
- (2) the educator has failed the examination more than five times.

Educ. Code § 21.048(c-1). You have marked portions of the submitted responsive information that you state reflect the results of examinations administered under section 21.048. You further state subsections 21.048(c-1)(1) and (2) are not applicable to the information at issue. Based on your representations and our review, we find the agency must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 21.048(c-1) of the Education Code. However, we find no portion of the remaining responsive information at issue constitutes the results of examinations administered under section 21.048. Accordingly, no portion of the remaining responsive information may be withheld under section 552.101 of the Government Code in conjunction with section 21.048 of the Education Code. As you raise no further exceptions to disclosure, the remaining information must be released.

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,



Vanessa Burgess
Assistant Attorney General
Open Records Division

VB/dls

Ref: ID# 442273

Enc. Submitted documents

c: Requestor
(w/o enclosures)