



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 6, 2012

Mr. Mike Leasor
For the Dublin Independent School District
Henslee Schwartz, L.L.P.
306 West Seventh Street, Suite 1045
Fort Worth, Texas 76102

OR2012-01822

Dear Mr. Leasor:

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# 444464.

The Dublin Independent School District (the "district"), which you represent, received a request for four specified documents. You state you have released three of the specified documents to the requestor. You claim the submitted information is excepted from disclosure pursuant to section 552.101 of the Government Code. You also state you notified the individual whose information is at issue of receipt of the request for information. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the exception you claim and reviewed the submitted information. We have also received and considered comments submitted by the interested third party. *See id.*

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. Section 552.101 encompasses information protected by other statutes, including 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* Educ. Code § 21.355(a)). This office has interpreted this section to apply to any document that evaluates, as that term is commonly understood, the performance of a teacher or administrator. In Open Records Decision No. 643 (1996), we determined "administrator" in section 21.355 means a person who is required to and does in fact 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 that a written reprimand constitutes an evaluation for the

purposes of section 21.355 where “it reflects the principal’s judgment regarding [a teacher’s] actions, gives corrective direction, and provides for further review.” *Abbott v. North East Indep. Sch. Dist.*, 212 S.W.3d 364 (Tex. App.—Austin 2006, no pet.).

You state the employee whose information is at issue held an administrator’s certificate under chapter 21 of the Education Code and indicate the employee was performing the functions of an administrator at the time of the evaluations. However, we note the submitted information consists of a personnel recommendation and interview summary. This information does not constitute evaluations of the individual’s performance as an administrator for the purposes of section 21.355. Accordingly, we find you have failed to demonstrate the submitted information constitutes evaluations subject to section 21.355 of the Education Code, and it may not be withheld under section 552.101 of the Government Code on that basis. As no further arguments against disclosure are raised, the district must release the submitted information.

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,



Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/dls

Ref: ID# 444464

Enc. Submitted documents

c: Requestor
(w/o enclosures)