



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 16, 2012

Mr. James W. Deatherage  
Boyle & Lowry, L.L.P.  
4201 Wingren, Suite 108  
Irving, Texas 75062

OR2012-02438

Dear Mr. Deatherage:

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# 445605.

The Irving Independent School District (the "district"), which you represent, received a request for a copy of the complaint filed by a district trustee against the district's superintendent. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.102 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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. Section 21.355 provides, in part, that "[a] document evaluating the performance of a teacher or administrator is confidential." 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. Open Records Decision No. 643 (1996). We also determined that an "administrator" for purposes of section 21.355 means a person who (1) is required to and does in fact hold an administrator's certificate under subchapter B of chapter 21 of the Education Code and (2) is performing the functions of an administrator, as that term is commonly defined, at the time of the evaluation. *Id.* at 4. In addition, the court 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." *North East Indep. Sch. Dist. v. Abbott*, 212 S.W.3d 364 (Tex. App.—Austin 2006, no pet.).

You contend the submitted information constitutes an evaluation for purposes of section 21.355. You inform us that the district's Board of Trustees (the "board") is charged

with the duty of evaluating the superintendent's performance. You explain, and have provided supporting documentation showing, that the trustee who filed the information at issue intended it to be part of the superintendent's evaluation, and the superintendent and the remainder of the board agreed to discuss it in that context. You state the superintendent who is the subject of this information was certified as a superintendent under subchapter B of chapter 21 of the Education Code at the time this information was created. Upon review, we find the submitted information reflects the judgment of a member of the district's board with respect to the superintendent's performance as an administrator, gives corrective direction, and provides for further review. Thus, based on your representations and our review of the information at issue, we agree this document is an evaluation for purposes of section 21.355 of the Education Code, and the district must withhold it under section 552.101 of the Government Code on that basis.<sup>1</sup>

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](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,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

Ref: ID# 445605

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>1</sup>As our ruling is dispositive, we do not address your remaining claim.