ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 10, 2012

Ms. Carrie Galatas
General Counsel
Conroe Independent School District
3205 West Davis
Conroe, Texas 77304-2098

OR2012-05124

Dear Ms. Galatas:

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# 450953.

The Conroe Independent School District (the "district") received a request for eleven categories of information related to various categories of employees, to include records related to two named district teachers. You state most of the requested information is being released to the requestor, but claim the submitted information is excepted from disclosure under sections 552.101 of the Government Code. We have considered the exception 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 exception encompasses information other statutes make confidential, such as section 21.355 of the Education Code. Section 21.355 provides "[a] document evaluating the performance of a teacher or administrator is confidential." 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). Additionally, the Third Court of Appeals has concluded a written reprimand constitutes an evaluation for purposes of section 21.355 as 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.). In Open Records Decision No. 643, we concluded a "teacher" for purposes of

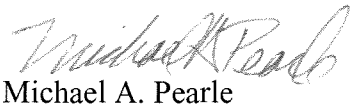
section 21.355 means a person who (1) is required to and does in fact hold a certificate or permit required under chapter 21 of the Education Code and (2) is teaching at the time of his or her evaluation. *Id.*

You assert the information you have submitted consists of written evaluations that are confidential under section 21.355. You state, and provide documentation showing, the named teachers held the appropriate certification at the time of their evaluations. Based on your representations and our review, we agree that a portion of the information you have submitted constitutes an evaluation as contemplated by section 21.355. Accordingly, the district must withhold the document we have marked under section 552.101 in conjunction with section 21.355. We find, however, that the remaining information does not evaluate the teacher's performance as a teacher for purposes of section 21.355, and therefore, we conclude the remaining information may not be withheld on this basis. As you raise no other exceptions to disclosure of the remaining submitted information, it must be released to the requestor.

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,



Michael A. Pearle
Assistant Attorney General
Open Records Division

MAP/eb

Ref: ID# 450953

Enc. Submitted documents

c: Requestor
(w/o enclosures)