



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 25, 2012

Mr. Thomas L. Schatte
Professional Standards Administrator
Killeen Independent School District
P.O. Box 967
Killeen, Texas 76540-0967

OR2012-08070

Dear Mr. Schatte:

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# 458763.

The Killeen Independent School District (the "district") received a request for several categories of information, including the personnel files of three individuals. You state the district is releasing some of the requested information, with personal information redacted pursuant to section 552.117 of the Government Code as permitted by section 552.024 of the Government Code.¹ You claim the submitted 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 representative sample of information.²

¹Section 552.024(c)(2) of the Government Code authorizes a governmental body to redact information protected by section 552.117(a)(1) of the Government Code without the necessity of requesting a decision under the Act if the current or former employee or official to whom the information pertains timely chooses not to allow public access to the information. *See* Gov't Code § 552.024(c)(2).

²We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

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, 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 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 that for purposes of section 21.355, the word “teacher” means a person who is required to and does in fact hold a teaching certificate under subchapter B of chapter 21 of the Education Code and who is engaged in the process of teaching, as that term is commonly defined, at the time of the evaluation. See ORD 643 at 4. We also have determined the word “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. *Id.* 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 *Abbott v. North East Indep. Sch. Dist.*, 212 S.W.3d 364 (Tex. App.—Austin 2006, no pet.).

You state the evaluations in Exhibit 3 pertain to individuals who were employed by the district as either teachers or administrators when their performance was evaluated. You also state these individuals hold the appropriate certifications under subchapter B of the Education Code. Based on your representations and our review of the information issue, we find the district must withhold the evaluations in Exhibit 3 under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code.

You claim the college transcripts submitted in Exhibit 2 are subject to 552.102(b) of the Government Code, which excepts from disclosure all information in transcripts of a professional public school employee other than the employee’s name, the courses taken, and the degree obtained. Gov’t Code § 552.102(b); Open Records Decision No. 526 (1989). Thus, with the exception of the employee’s name, courses taken, and degree obtained, the district must withhold the transcripts in Exhibit 2 under section 552.102(b) of the Government Code.

In summary, the district withhold the evaluations in Exhibit 3 under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code. With the exception of the employee’s name, courses taken, and degree obtained, the district must withhold the transcripts in Exhibit 2 under section 552.102(b) of the Government Code.

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,

A handwritten signature in cursive script that reads "Tamara H. Holland".

Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/ag

Ref: ID# 458763

Enc. Submitted documents

c: Requestor
(w/o enclosures)