



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 26, 2012

Mr. Ricardo R. Lopez
Counsel for the North East ISD
Schulman, Lopez & Hoffer L.L.P.
517 Soledad Street
San Antonio, Texas 78205-1508

OR2012-15295

Dear Mr. Lopez:

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# 466323.

The North East Independent School District (the "district"), which you represent, received a request for the organizational health surveys conducted at five specified schools. You claim 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 representative sample of information.¹

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. Section 21.355 of the Education Code provides that "[a] document evaluating the performance of a teacher or administrator is confidential." 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). In Open Records Decision No. 643, we determined a "teacher" for purposes of section 21.355 means a person who (1) is required to and does in

¹We 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.

fact hold a teaching certificate under subchapter B of chapter 21 of the Education Code or a school district teaching permit under section 21.055 and (2) is engaged in the process of teaching, as that term is commonly defined, at the time of the evaluation. *See id.* at 4. We also determined 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. *See id.* at 5; *Abbott v. North East Indep. Sch. Dist.*, 212 S.W.3d 364 (Tex. App.—Austin, 2006, no pet.). Although you argue the submitted survey “contains statements about [a principal’s] effectiveness as a campus leader, as well as recommendations for improvement” and the district uses this survey as part of the principal’s performance evaluation, we have reviewed the survey and find it does not evaluate the performance of a teacher or administrator. Therefore, we find the submitted information is not confidential under 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 you raise no further exceptions to disclosure of this information, the district must release it.

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,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/bhf

Ref: ID# 466323

Enc. Submitted documents

c: Requestor
(w/o enclosures)