



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 11, 2012

Ms. Leticia D. McGowan
School Attorney
Dallas Independent School District
3700 Ross Avenue
Dallas, Texas 75204

OR2012-16276

Dear Ms. McGowan:

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# 470460 (DISD ORR# 11439).

The Dallas Independent School District (the "district") received a request for the personnel files for two named employees. You state you are providing the requestor with some of the requested information. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.135 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 encompasses section 21.355 of the Education Code, which provides 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 at 3 (1996). In Open Records Decision No. 643, we 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 id.* at 4. We further determined that "teacher interns, teacher trainees, librarians, educational aids and counselors cannot be teachers or administrators for purposes

of section 21.355.” *See id.* at 5. The employee in question is certified as a teacher, but holds the position and performs the duties of a “Community Liaison.” Further, the evaluations at issue evaluate the employee’s performance as a Community Liaison. Thus, we find you have not shown how the submitted information evaluates the performance of a teacher for purposes of section 21.355. Accordingly, the district may not withhold any portion of the submitted information under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code.

Section 552.101 also encompasses section 261.201(a) of the Family Code, which provides in part:

(a) Except as provided by Section 261.203, the following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

- (1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and
- (2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). You claim a portion of the submitted information is confidential under section 261.201. We note the district is not an agency authorized to conduct a chapter 261 investigation. *See id.* § 261.103 (listing agencies that may conduct child abuse investigations). However, you state the district has on staff an employee who is shared with the Texas Department of Family and Protective Services (“DFPS”) to receive and investigate child abuse claims. Furthermore, you state the information at issue was obtained by the Dallas Police Department, DFPS, or district police officers, who are commissioned peace officers with the authority to investigate child abuse claims, to investigate such claims. Thus, based on your representations and our review, we find the Office of Professional Responsibility investigation at issue was used by these investigating agencies in a child abuse investigation. *See id.* §§ 261.001(1) (defining “abuse” for purposes of Family Code chapter 261), 101.003(a) (defining “child” for purposes of section 261.201 as “person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes”). Therefore, we find the information at issue is within the scope of section 261.201 of the Family Code. You have not indicated any of the investigating entities have adopted rules that govern the release of this type of information in this instance; therefore, we assume no such regulations exist. Given that assumption, the

district must withhold the information at issue under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.¹

In summary, the district must withhold the Office of Professional Responsibility investigation under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. The remaining information must be released.²

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,



Jasmine D. Wightman
Assistant Attorney General
Open Records Division

JDW/dls

Ref: ID# 470460

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

²We note the remaining information contains a social security number. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147(b).