



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 28, 2013

Ms. Tiffany B. Duncan  
For the Lyford Consolidated Independent School District  
Powell & Leon, L.L.P.  
1706 West Sixth Street  
Austin, Texas 78703

OR2013-08783

Dear Ms. Duncan:

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# 489354.

The Lyford Consolidated Independent School District (the "district"), which you represent, received a request for information regarding a named teacher, a substitute teacher, and the requestor's son. You state some responsive information has been provided to the requestor. You claim the remaining responsive 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. Section 552.101 encompasses information protected by section 21.355 of the Education Code. Section 21.355 provides, in relevant part, "[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 administrator. *See* Open Records Decision No. 643 (1996). In Open Records Decision No. 643, we determined 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 in the process of teaching, as that term is commonly defined, at the time of the evaluation. *See*

*id.* at 4. 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.” *Abbott v. North East Indep. Sch. Dist.*, 212 S.W.3d 364 (Tex. App.—Austin 2006, no pet.).

Based on our review, we conclude the submitted information constitutes a teacher evaluation for the purposes of section 21.355. Further, you provide evidence that the teacher at issue held the appropriate teaching certificate at the time of the creation of the evaluation. Therefore, the district must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code.<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,



Tim Neal  
Assistant Attorney General  
Open Records Division

TN/dls

Ref: ID# 489354

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>1</sup>Because our ruling is dispositive, we do not address your remaining argument against disclosure.