



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 26, 2013

Ms. Amanda M. Bigbee  
General Counsel  
Keller Independent School District  
350 Keller Parkway  
Keller, Texas 76248

OR2013-10912

Dear Ms. Bigbee:

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# 491575.

The Keller Independent School District (the "district") received a request for the following information:

The fully redacted copy of each teacher's PDAs [s]ummative appraisal for Trinity Springs Middle School. I am not requesting any identifiable information. The only information requested is the [t]eacher's . . . score for each domain. I am also requesting a fully redacted copy of all growth plans given by [a named individual]. The only information I am seeking is [the named individual's] signature on each individual growth plan.

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 information, which you state is a representative sample of the information at issue.<sup>1</sup>

---

<sup>1</sup>We assume that 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 that those records contain substantially different types of information than that submitted to this office.

Initially, we note the submitted information consists of more information than that which is requested because the submitted information is not redacted in accordance with the requestor's instructions. This ruling does not address the public availability of the non-responsive information and the district need not release information that is not responsive to the request.

Section 552.101 excepts from required public disclosure information made confidential by law, including information made confidential by statute. You raise Education Code section 21.355. Section 21.355(a) provides "[a] document evaluating the performance of a teacher or administrator is confidential." Educ. Code § 21.355(a). This office interprets this statute 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 (1996). An administrator is someone who is required to hold and does hold a certificate required under chapter 21 of the Education Code and is administering at the time of his or her evaluation. *Id.* A "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.

You state the appraisals requested are the Professional Development and Appraisal System ("PDAS") used by the district and most other Texas school districts to formally evaluate teacher performance and are the evaluative documents described in section 150.1003(b) of title 19 of the Texas Administrative Code. *See* 19 T.A.C. § 150.1003(b) (setting forth requirements of annual teacher appraisal). You state the growth plans and intervention plans are part of the appraisal system and are used to evaluate the performance and growth of teachers in specific areas of identified need. You explain "these types of intervention plans are a pivotal part of the teacher evaluation system and are strongly considered during evaluations of performance." You point out in the submitted example of a growth plan, the PDAS domains for evaluation are specifically noted.

Although the requestor seeks the information in redacted form – that is, the appraisal with all information redacted except for the score in each domain and the growth plans with all information redacted except a named individual's signature on each plan – you argue the statute nevertheless applies because you contend if the Legislature intended the records to be public with such redactions, it could have said so. Thus, you argue redacting the documents does not make them less confidential under the plain language of the statute.

We disagree. The information at issue after the requestor's redactions, the score in each domain and the signature on the plan, is not "a document evaluating the performance of a teacher or administrator." *See Fitzgerald v. Advanced Spine Fixation Sys., Inc.*, 996 S.W.2d 864, 865-66 (Tex. 1999) (in interpreting statutes, goal of discerning legislature's intent is served by beginning with statute's plain language because it is assumed that legislature tried to say what it meant and its words are therefore surest guide to its intent); *see also* Open Record Decision No. 649 at 3 (1996) (language of confidentiality provision controls scope of its protection). Accordingly, the district may not withhold the information at issue under section 552.101.

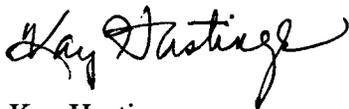
Section 552.102(a) of the Government Code exempts from disclosure “information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” Gov’t Code § 552.102(a). The limitation of a “clearly unwarranted invasion of personal privacy” requires a balance between the protection of an individual’s right of privacy and the preservation of the public’s right to government information. *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex.*, 354 S.W.3d 336 (Tex. 2010). You state the district keeps the information submitted in the teachers’ personnel files and argue disclosure of the information would constitute a clearly unwarranted invasion of personal privacy. However, the information at issue does not include the identity of any individual. Thus, release of the information would not constitute an unwarranted invasion of personal privacy. Therefore, the district may not withhold the information issue based on section 552.102.

In summary, the district need not release the information that is not responsive to the request. The district must release the requested information 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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Kay Hastings  
Assistant Attorney General  
Open Records Division

KH/sdk

Ref: ID# 491575

Enc. Submitted documents

c: Requestor  
(w/o enclosures)