



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 6, 2013

Ms. Katheryne MarDock  
Assistant General Counsel  
Houston Independent School District  
4400 West 18th Street  
Houston, Texas 77092-8501

OR2013-13517

Dear Ms. MarDock:

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# 495333 (TPIA Request No. F051613).

The Houston Independent School District (the "district") received a request for "the EEO file in which [the requestor] filed an EEO claim against [a named individual]." You state the district has released most of the requested information to the requestor. 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 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. 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." 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 "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. *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.” *Abbot v. North East Indep. Sch. Dist.*, 212 S.W.3d 364 (Tex. App.—Austin 2006, no pet.).

You contend the submitted hearing examiner’s recommendations are confidential under section 21.355 of the Education Code. You assert the information at issue consists of an evaluation of an administrator employed by the district, who you explain was functioning as an administrator and was required to and did hold the appropriate certifications under subchapter B of the Education Code when he was evaluated. Based on your representations and our review, we conclude portions of the submitted information reveal evaluations of the administrator’s performance, and are subject to section 21.355 of the Education Code. Therefore, the district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code. However, we find you have failed to demonstrate how the remaining information constitutes an evaluation of the performance of an administrator for the purpose of section 21.355. Accordingly, the district may not withhold any of the remaining information under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code. As you raise no further exceptions against the disclosure of this information, it must be released.

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,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

Ref: ID# 495333

Enc. Submitted documents

c: Requestor  
(w/o enclosures)