



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 16, 2014

Ms. Carrie Galatas
General Counsel
Conroe Independent School District
3205 West Davis
Conroe, Texas 77304-2098

OR2014-06306

Dear Ms. Galatas:

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# 519728.

The Conroe Independent School District (the "district") received a request for records pertaining to seven named individuals. You state the district is releasing some information. 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. Section 552.101 of the Government Code encompasses section 21.048 of the Education Code, which addresses teacher certification examinations. Section 21.048(c-1) provides the following:

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 that those records contain substantially different types of information than that submitted to this office.

(c-1) The results of an examination administered under this section are confidential and are not subject to disclosure under Chapter 552, Government Code, unless:

(1) the disclosure is regarding notification to a parent of the assignment of an uncertified teacher to a classroom as required by Section 21.057; or

(2) the educator has failed the examination more than five times.

Educ. Code § 21.048(c-1). Upon review, we find the information we have marked in Exhibit C reflects the results of examinations administered under section 21.048 of the Education Code. You state subsections 21.048(c-1)(1) and (2) are not applicable in this instance. Accordingly, the district must withhold the information we have marked under section 552.101 in conjunction with section 21.048(c-1). However, you raise section 21.048 for the Texas Examination of Current Administrators and Teachers ("TECAT") score report in Exhibit C. We note section 21.048 of the Education Code was added by the 74th Legislature in 1995. *See* Act of May 29, 1995, 74th Leg., R.S., ch. 260, § 1 (effective May 30, 1995). The submitted TECAT score report indicates the examination at issue was administered in 1986. Thus, we conclude the examination at issue was not administered under section 21.048 of the Education Code. Accordingly, we find section 21.048(c-1) is not applicable to the information at issue. Further, we find no portion of the remaining information in Exhibit C consists of the results of examinations administered under section 21.048 of the Education Code, and the district may not withhold any of the remaining information under section 552.101 of the Government Code on that basis.

Section 552.101 of the Government Code also 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 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 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.

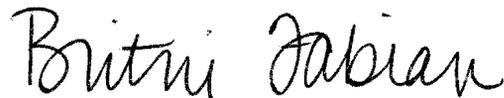
You claim the information in Exhibit B consists of confidential teacher evaluations under section 21.355. You inform us each individual referred to in the information at issue is a certified teacher. *See* ORD 643 at 4. You state the employees at issue were acting in this capacity when the evaluations were created. Based on your representations and our review, we conclude the district must withhold Exhibit B under section 552.101 of the Government Code in conjunction with section 21.355.

In summary, the district must withhold the information we have marked in Exhibit C under section 552.101 of the Government Code in conjunction with section 21.048 of the Education Code. The district must withhold Exhibit B under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code. The remaining information 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, 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,



Britni Fabian
Assistant Attorney General
Open Records Division

BF/tch

Ref: ID# 519728

Enc. Submitted documents

c: Requestor
(w/o enclosures)