



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 6, 2014

Ms. Heather M. Castillo  
Counsel for the Arlington Independent School District  
Hill Gilstrap, P.C.  
1400 West Abram Street  
Arlington, Texas 76013

OR2014-07654

Dear Ms. Castillo:

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# 521786.

The Arlington Independent School District (the "district"), which you represent, received a request for seven categories of information, including all growth plans issued at a specified school between 2011-2014 with all identifiable information redacted. You state you are 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 information.

Initially, we note the requestor excluded identifiable information contained in the requested growth plans. Thus, such information is not responsive to the instant request. This ruling does not address the public availability of non-responsive information and such information need not be released in response to this request.

Next, we note you have redacted information from the submitted documents. Pursuant to section 552.301 of the Government Code, a governmental body that seeks to withhold requested information must submit to this office a copy of the information, labeled to indicate which exceptions apply to which parts of the copy, unless the governmental body has received a previous determination for the information at issue. Gov't Code §§ 552.301(a), (e)(1)(D). You do not assert, nor does our review of our records indicate, you

have been granted a previous determination to withhold any of the types of information you have redacted without seeking a ruling from this office. *See id.* § 552.301(a); Open Records Decision No. 673 (2000). In this instance, we are able to discern the nature of the information that has been redacted; thus, being deprived of that information does not inhibit our ability to make a ruling. Nevertheless, be advised that a failure to provide this office with requested information generally deprives us of the ability to determine whether information may be withheld and leaves this office with no alternative other than ordering the redacted information be released. *See Gov't Code* §§ 552.301(e)(1)(D) (governmental body must provide this office with copy of "specific information requested"), .302. Thus, in the future, the district should refrain from redacting any information it is not authorized to withhold in seeking an open records ruling.

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 at issue are Performance Development Appraisal System Intervention Plans for Teachers In Need of Assistance. *See* 19 T.A.C. §§ 150.1003(b) (setting forth requirements of annual teacher appraisal), .1004 (teacher in need of assistance). You state the intervention plans are part of the formal evaluation process and evaluate the performance and growth of teachers in specific areas of identified need. Although the requestor seeks the information in redacted form – that is, the appraisal with identifiable information redacted – 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 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 of the Government Code on this basis.

In summary, the district need not release the information that is not responsive to the request. The district must release the responsive 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,



Paige Lay  
Assistant Attorney General  
Open Records Division

PL/som

Ref: ID# 521786

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)