



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 9, 2014

Ms. Lori Robinson
Staff Attorney
Austin Independent School District
1111 West Sixth Street
Austin, Texas 78703

OR2014-07939

Dear Ms. Robinson:

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# 522235.

The Austin Independent School District (the "district") received two requests from different requestors for information pertaining to complaints made against a named district employee. You state the district has released some of the requested information. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note portions of the submitted information, which we have marked, are not responsive to the instant requests because they do not pertain to the named employee. The district need not release nonresponsive information in response to these requests, and this ruling will not address that 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. This section encompasses information protected by other statutes, such as section 21.355 of the Education Code. Section 21.355(a) provides that "[a] document

¹As we are able to make this determination, we need not address your arguments against disclosure of Exhibit F.

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 “administrator,” for purposes of 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. *Id.* at 4.

You explain Exhibit B consists of an evaluation of an administrator, whom you state, and submit supporting documents demonstrating, held the appropriate certificate for the purposes of section 21.355. Upon review, we find the employee at issue was acting in the capacity of an administrator when the evaluation was 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 of the Education Code.

Section 552.101 of the Government Code also encompasses section 261.201(a) of the Family Code, which provides as follows:

(a) [T]he following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). After review, we find the responsive information in Exhibit D and Exhibit E was used or developed in investigations of alleged child abuse. *See id.* § 261.001(1) (defining “abuse” for purposes of Family Code ch. 261); *see also id.* § 101.003(a) (defining “child” for purposes of this section as person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes). We note the district is not an agency authorized to conduct a chapter 261 investigation. *See id.* § 261.103 (listing agencies that may conduct child abuse investigations). However, the responsive information in Exhibits D and E pertains to investigations of alleged or suspected abuse conducted by the district’s police department (the “department”), which is an agency authorized to conduct investigations under chapter 261. Based on your representations and our review of the information at issue, we

agree the responsive information in Exhibits D and E is subject to section 261.201 of the Family Code. As you do not indicate the department has adopted a rule that governs the release of this type of information, we assume no such rule exists. Given that assumption, we conclude the district must withhold the responsive information in Exhibits D and E under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.² See Open Records Decision No. 440 at 2 (1986) (addressing predecessor statute).

In summary, 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 district must withhold the responsive information in Exhibits D and E under section 552.101 of the Government Code in conjunction with section 261.201 of the Government Code.

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,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/akg

Ref: ID# 522235

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)

²As our ruling on this information is dispositive, we need not address your remaining arguments against its disclosure.