



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 26, 2014

Mr. Andrew B. Thompson
Assistant General Counsel
Office of Legal Services
Corpus Christi Independent School District
P.O. Box 110
Corpus Christi, Texas 78403-0110

OR2014-10918

Dear Mr. Thompson:

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# 527030.

The Corpus Christi Independent School District (the "school district") received a request for documents regarding a specified individual, including all performance reviews, disciplinary reports, and complaints filed against the individual. You state the school district will release portions of the requested information to the requestor. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. You raise section 21.355(a) of the Education Code, which provides, "[a] document evaluating the performance of a teacher or administrator is

¹Although you also state the school district believes the responsive information may be excepted from disclosure under sections 552.102, 552.107, 552.111, and 552.135, because you did not provide an explanation of the applicability of these exceptions, we do not address them. See Gov't Code § 552.301(e)(1)(A) (requiring governmental body to submit to attorney general written comments stating reasons why asserted exceptions apply).

confidential.” Educ. Code § 21.355(a). This office interprets this section 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). In that opinion, this office also concluded 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.* The Third Court of Appeals has concluded a written reprimand constitutes an evaluation for purposes of section 21.355 because “it reflects the [evaluator’s] judgment regarding the [educator’s] actions, gives corrective direction, and provides for further review.” *Abbott v. North East Indep. Sch. Dist.*, 212 S.W.3d 364 (Tex. App.—Austin 2006, no pet).

You assert all of the submitted information is confidential under section 21.355. You state the employee whose information is at issue was a former school district administrator who held an appropriate certificate when the evaluations at issue were conducted. After review of the information at issue and consideration of your arguments, we conclude, with the exception of one document we have marked, the documents at issue are confidential under section 21.355 of the Education Code. Therefore, pursuant to section 552.101 of the Government Code, the school district must withhold these documents from required public disclosure.

Section 552.117 may be applicable to the remaining information at issue. Section 552.117(a)(1) excepts from disclosure the home addresses and telephone numbers, emergency contact information, social security numbers, and family member information of current or former officials or employees who request that this information be kept confidential under section 552.024. Gov’t Code § 552.117(a)). Whether a particular piece of information is protected by section 552.117 must be determined at the time the request for it is made. *See* Open Records Decision No. 530 at 5 (1989). Therefore, the school district may only withhold information under section 552.117(a)(1) on behalf of current or former officials or employees who made a request for confidentiality under section 552.024 prior to the date on which the request for this information was made. Thus, in this case, if the individual whose information is at issue timely elected to keep his personal information confidential, the school district must withhold the information we marked under section 552.117(a)(1). If the individual whose information we have marked did not make a timely election under section 552.024, the school district may not withhold the marked information under section 552.117(a)(1).

In summary, with the exception of the document we marked, the school district must withhold the submitted information under section 552.101 in conjunction with section 21.355 of the Education Code. If the individual whose information is at issue timely elected to keep his personal information confidential, the school district must withhold the information we marked under section 552.117(a)(1) and release the remaining information. If the individual whose information we have marked did not make a timely election under section 552.024, the school district must release the remaining information in its entirety.

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,



Kay Hastings
Assistant Attorney General
Open Records Division

KH/sdk

Ref: ID# 527030

Enc. Submitted documents

c: Requestor
(w/o enclosures)