



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 10, 2014

Mr. Ricardo R. Lopez  
Counsel for the North East Independent School District  
Shulman, Lopez, & Hoffer, LLP  
517 Soledad Street  
San Antonio, Texas 78205-1508

OR2014-11902

Dear Mr. Lopez:

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# 528826.

The North East Independent School District (the "district"), which you represent, received a request for information regarding a named employee; credentials, training, and conferences attended by certain paraprofessionals during a specified time period; and teacher credentials, degrees, training, and conferences attended by certain physical therapists. You indicate the district will release some information to the requestor and state the district does not maintain information responsive to a portion of the request for information.<sup>1</sup> 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. Section 21.355 of the Education Code provides, in relevant part, "[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

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<sup>1</sup>The Act does not require a governmental body to release information that did not exist when it received a request or to create responsive information. See *Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

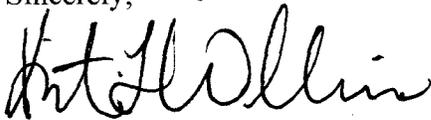
is commonly understood, the performance of a teacher or administrator. *See* Open Records Decision No. 643 (1996). In Open Records Decision No. 643, we determined for purposes of section 21.355, the word “teacher” means a person who is required to and does in fact hold a teaching certificate under subchapter B of chapter 21 of the Education Code and who is in the process of teaching, as that term is commonly defined, at the time of the evaluation. *See id.* at 4.

You state the submitted information consists of evaluations of a district employee that are subject to section 21.355. You state the employee at issue was employed under a teaching contract governed by Chapter 21 of the Education Code. We thus understand the employee at issue was certified as a teacher at the time of the evaluation. You also indicate the employee was acting in her capacity as a teacher at the time of the evaluation. Upon review, we find the submitted information consists of evaluations of a teacher by the district. Accordingly, the district must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 21.355 of the Education 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](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,



Kristi L. Wilkins  
Assistant Attorney General  
Open Records Division

KLW/tch

Ref: ID# 528826

Enc. Submitted documents

c: Requestor  
(w/o enclosures)