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ATTORNEY GENERAL OF TEXAS

August 17, 2016

Mr. Andrew Tatgenhorst
Counsel for The Dime Box Independent School District
Powell & Leon, L.L.P.
115 Wild Basin Road, Suite 106
Austin, Texas 78746

OR2016-18614

Dear Mr. Tatgenhorst:

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# 622849.

The Dime Box Independent School District (the "district"), which you represent, received a request for specified categories of information pertaining to the school's superintendent. The district states it has provided some of the requested information to the requestor, but claims the submitted information is excepted from disclosure under sections 552.101 and 552.102 of the Government Code. We have considered the claimed exceptions 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 section 21.355 of the Education Code. Section 21.355(a) provides "[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 an administrator. *See* Open Records Decision No. 643 at 3 (1996). We determined an "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 of the Education Code, and is performing the functions as an administrator, as that term is commonly defined, at the time of the evaluation. *Id.*

The district asserts Exhibit C consists of evaluations of the performance of an administrator who holds the appropriate certificate for the purpose of section 21.355 and was acting as an administrator at the time of the evaluations. Upon review, we find this information is confidential under section 21.355. Therefore, the district must withhold Exhibit C under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code.

Section 552.102(b) of the Government Code excepts from disclosure “a transcript from an institution of higher education maintained in the personnel file of a professional public school employee[.]” Gov’t Code § 552.102(b). This exception further provides, however, that “the degree obtained or the curriculum on a transcript in the personnel file of the employee” are not excepted from disclosure. *Id.* Exhibits D and E consist of educational transcripts. Thus, with the exception of the employee’s name, the degree obtained, and the courses taken, which the district must release, the district must withhold Exhibits D and E under section 552.102(b) of the Government Code. *See* Open Records Decision No. 526 (1989) (addressing statutory predecessor).

To conclude, the district must withhold Exhibit C under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code. With the exception of the employee’s name, the degree obtained, and the courses taken, which the district must release, the district must withhold Exhibits D and E under section 552.102(b) 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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/bhf

Ref: ID# 622849

Enc. Submitted documents

c: Requestor
(w/o enclosures)