



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 19, 2016

Ms. Amber K. King  
General Counsel  
Lake Travis Independent School District  
3322 Ranch Road 620 South  
Austin, Texas 78738

OR2016-18783

Dear Ms. King:

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# 623672.

The Lake Travis Independent School District (the "district") received two requests from the same requestor for specified e-mail communications involving named individuals and specified e-mail addresses during specified periods of time and specified employment information of three named individuals.<sup>1</sup> You state you have released some information. You also state you have redacted some information pursuant to the Family Educational

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<sup>1</sup>You state the district sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380,387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

Rights and Privacy Act (“FERPA”), section 1232g of title 20 of the United States Code.<sup>2</sup> You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.139 of the Government Code. Additionally, you provide documentation showing you have notified one of the named individuals of the right to submit comments to this office stating why some of the submitted information should not be released. *See* Gov’t Code § 552.304 (interested party may submit comments stating why information should or should not be released). As of the date of this letter, we have not received any comments from this individual. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>3</sup>

Initially, we note the district states it has redacted e-mail addresses pursuant to Open Records Decision No. 684 (2009) which authorizes a governmental body to withhold certain information, including e-mail addresses of members of the public under section 552.137 of the Government Code, without seeking a ruling from this office. Section 552.137 excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body,” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). Gov’t Code § 552.137(a)-(c). We are unable to determine whether the personal e-mail addresses at issue, which are located within e-mails communicating official business of the district, belong to district officials or employees. Thus, we rule conditionally. To the extent the e-mail addresses the district redacted are the personal e-mail addresses of district officials or employees, this information is not subject to section 552.137 and may not be withheld on that basis. *See Austin Bulldog v. Leffingwell*, No. 03-13-00604-CV, 2016 WL1407818 (Tex. App.—Austin, April 8, 2016, no pet.) (holding personal e-mail addresses of government officials used to conduct official government business are not e-mail addresses of “members of the public” for purposes of Gov’t Code § 552.137(a)). To the extent the e-mail addresses at issue are not the personal e-mail addresses of district officials or employees, this information is subject to section 552.137 and must be withheld under section 552.137, unless the owners of the e-mail addresses affirmatively consent to their release.

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<sup>2</sup>The United States Department of Education Family Policy Compliance Office (the “DOE”) has informed this office FERPA does not permit state and local educational authorities to disclose to this office, without parental or student consent, unredacted, personally identifiable information contained in education records for the purpose of our review in the open records ruling process under the Act. The DOE has determined FERPA determinations must be made by the educational authority in possession of the education records. A copy of this letter may be found on the Office of the Attorney General’s website: <https://www.texasattorneygeneral.gov/files/og/20060725usdoe.pdf>.

<sup>3</sup>We assume the “representative sample” of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

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, which provides, in relevant part, “[a] document evaluating the performance of a teacher or administrator is confidential.” Educ. Code § 21.355(a). The Third Court of Appeals has concluded a written reprimand constitutes an evaluation for purposes of section 21.355 because “it reflects the principal’s judgment regarding [a teacher’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.). 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 administrator. *See* Open Records Decision No. 643 (1996). In Open Records Decision No. 643, 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 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.*

You contend Exhibit C consists of confidential evaluations of an administrator by the district. You state the administrator at issue was certified as an administrator by the State Board of Educator Certification and was acting in her capacity as an administrator when the evaluative documents were created. Upon review, we agree the information at issue consists of confidential evaluations for the purposes of section 21.355 of the Education Code, and the district must withhold Exhibit C under section 552.101 of the Government Code on that basis.

Section 552.139 of the Government Code provides, in part:

(a) Information is excepted from [required public disclosure] if it is information that relates to computer network security, to restricted information under Section 2059.055 [of the Government Code], or to the design, operation, or defense of a computer network.

(b) The following information is confidential:

(1) a computer network vulnerability report; [and]

(2) any other assessment of the extent to which data processing operations, a computer, a computer program, network, system, or system interface, or software of a governmental body or of a contractor of a governmental body is vulnerable to unauthorized access or harm, including an assessment of the extent to which the governmental body’s or contractor’s electronically stored information

containing sensitive or critical information is vulnerable to alteration, damage, erasure, or inappropriate use[.]

Gov't Code § 552.139(a), (b)(1)-(2). Section 2059.055 of the Government Code provides in pertinent part:

(b) Network security information is confidential under this section if the information is:

(1) related to passwords, personal identification numbers, access codes, encryption, or other components of the security system of a state agency;

(2) collected, assembled, or maintained by or for a governmental entity to prevent, detect, or investigate criminal activity; or

(3) related to an assessment, made by or for a governmental entity or maintained by a governmental entity, of the vulnerability of a network to criminal activity.

*Id.* § 2059.055(b). You state the information marked in yellow consists of security sensitive information relating to the district's routable IP addresses, the district's network device serial numbers, details of the district's network structure design, and operations used to protect the district's network and computer systems from attack or unauthorized access. You argue release of the information marked in yellow could potentially subject the district's computer network to potential damage or unlawful access by individuals attempting to breach the district's technology systems. Based on your representations and our review, we find the district must withhold the information marked in yellow under section 552.139 of the Government Code. You state the information marked in pink consists of details of computer networks belonging to members of the public. However, upon review, we find you have failed to demonstrate the applicability of section 552.139 to this information, and the district may not withhold any of it on that basis.

In summary, to the extent the e-mail addresses at issue are not the personal e-mail addresses of district officials or employees, this information must be withheld under section 552.137 of the Government Code, unless the owners of the e-mail addresses affirmatively consent to their release. The district must withhold Exhibit C under section 552.101 of the Government Code in conjunction with 21.355 of the Education Code. The district must withhold the information marked in yellow under section 552.139 of the Government Code. The remaining information must be released.

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# 623672

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Third Party  
(w/o enclosures)