



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 22, 2006

Ms. Ylise Janssen  
Office of the General Counsel  
Austin Independent School District  
1111 West Sixth Street, Suite A-240  
Austin, Texas 78703-5399

OR2006-06588

Dear Ms. Janssen:

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# 255981.

The Austin Independent School District (the "district") received a request for the requestor's applicant, personnel, and "sub files." You claim that the requested 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 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," and encompasses information made confidential by other statutes. Section 21.355 of the Education Code 21.355 provides that, "[any] document evaluating the performance of a teacher or administrator is confidential." This office interpreted 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 that a teacher is someone who is required to hold and does hold a certificate or permit required under chapter 21 of the Education Code and is teaching at the time of his or her evaluation. *Id.* at 4. Assuming that the individual who is the subject of this information held a teaching certificate under subchapter B of chapter 21 of the Education Code and was performing the functions of a teacher at the time of the evaluation, we conclude that the submitted information is confidential in its entirety under section 21.355 of the Education Code and must be withheld

from disclosure under section 552.101 of the Government Code. However, we note that section 21.352(c) specifically provides that “[e]ach teacher is entitled to receive a written copy of the evaluation on its completion.” Therefore, to the extent the submitted evaluations are the type contemplated in section 21.352, the requestor has a right of access under section 21.352(c) and the evaluations at issue must be released. If the requestor does not have a right of access under section 21.352(c), these evaluations are excepted from disclosure pursuant to section 552.101 in conjunction with section 21.355 of the Education Code.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

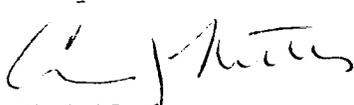
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general’s Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep’t of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/vh2

Ref: ID# 255981

Enc. Submitted documents

c: Ms. Barbara Szucs  
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Austin Independent School District  
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Austin, Texas 78703-5399  
(w/o enclosures)