



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 8, 2007

Mr. Clay T. Grover  
Feldman & Rogers, L.L.P.  
Clear Creek Independent School District  
5718 Westheimer Road, Suite 1200  
Houston, Texas 77057

OR2007-00287

Dear Mr. Grover:

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# 268564.

The Clear Creek Independent School District (the "district"), which you represent, received a request for twenty-nine categories of information related to the requestor's client and that client's separation from the district, including the employee evaluations for a named district employee and "the growth plan for [this named employee] from last year." You state you have released most of the requested information. You claim that the responsive information for this named district employee 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 made confidential by other statutes. Section 21.355 of the Education Code provides that "[a] document evaluating the performance of a teacher or administrator is confidential." Educ. Code § 21.355. In Open Records Decision No. 643 (1996), this office interpreted this section to apply to any document that evaluates, as that term is commonly understood, the performance of a teacher. See ORD 643. 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.

You claim that the submitted information consists of evaluations of the named district employee made confidential under section 21.355 of the Education Code. You inform us that the employee at issue was required to hold and did hold a certificate required under chapter 21 of the Education Code, and was teaching, at the time the submitted information was created. Based on your representations and our review of the submitted information, we agree that this information is confidential under section 21.355 of the Education Code and thus must be withheld from disclosure under section 552.101 of the Government 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,

A handwritten signature in black ink, appearing to read "Ramsey Abarca". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Ramsey A. Abarca  
Assistant Attorney General  
Open Records Division

RAA/eb

Ref: ID# 268564

Enc. Submitted documents

c: Ms. Jana H. Woelfel  
1401 McKinney Street, Suite 2200  
Houston, Texas 77010-4035  
(w/o enclosures)