



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 21, 2008

Mr. Robert A. Schulman  
Feldman & Rogers, LLP  
517 Soledad Street  
San Antonio, Texas 78205-1508

OR2008-02362

Dear Mr. Schulman:

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# 302999.

The San Felipe Del Rio Consolidated Independent School District (the "district"), which you represent, received a request for information pertaining to a named employee. You state that the district will redact social security numbers.<sup>1</sup> You also state that the district will release some of the requested information. You claim that some of the submitted information is excepted from disclosure under sections 552.101, 552.102, and 552.117 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information protected by other statutes, such as section 21.355 of the Education Code. Section 21.355 provides that "a document evaluating the performance of a teacher or administrator is confidential." Educ. Code § 21.355. This office has interpreted this section to apply to any document that evaluates, as that term is commonly understood, the performance of a teacher or

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<sup>1</sup>Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

administrator. Open Records Decision No. 643 (1996). In Open Records Decision No. 643, we determined that 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 or a school district teaching permit under section 21.055, and who is engaged in the process of teaching, as that term is commonly defined, at the time of the evaluation. *See id.* at 4; *Abbott v. North East Independent School District*, 212 S.W.3d 364, 367 (Tex. App.—Austin 2006, no pet.) (holding that a document evaluates a teacher when it “reflects the principal’s judgment regarding [the teacher’s] actions, gives corrective direction, and provides for further review.”). You state that the individual at issue holds the appropriate teaching certificate and was teaching at the time of the submitted evaluations. Based on your representations and our review of the information at issue, we conclude that the information in Exhibit 2 constitutes teacher evaluations for the purposes of section 21.355. Therefore, the district must withhold Exhibit 2 under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code.

You claim that the highlighted portions of the submitted transcripts in Exhibit 3 are excepted from public disclosure under section 552.102(b) of the Government Code. Section 552.102(b) excepts from disclosure all information from transcripts of professional public school employees other than the employee’s name, the courses taken, and the degree obtained. Gov’t Code § 552.102; Open Records Decision No. 526 (1989). Thus, with the exception of the employee’s name, the courses taken, and the degree obtained, the district must withhold the transcripts submitted in Exhibit 3 under section 552.102(b) of the Government Code.

Section 552.117(a)(1) of the Government Code excepts from disclosure the current and former home addresses, telephone numbers, social security numbers, and family member information of current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024 of the Government Code. Gov’t Code § 552.117(a)(1). *See also* Open Records Decision No. 670 (2001) (extending section 552.117(a)(1) exception to personal cellular telephone number and personal pager number of employee who elects to withhold home telephone number in accordance with section 552.024). We note that a post office box number is not a “home address” for purposes of section 552.117.<sup>2</sup> Whether a particular piece of information is protected under section 552.117(a)(1) must be determined at the time the request for it is made. *See* Open Records Decision No. 530 at 5 (1989). You state that the employee whose information is at issue made a request for confidentiality under section 552.024 prior to the date on which the request for information was received. Accordingly, the district must withhold the information you have marked, except where we have marked for release, pursuant to section 552.117(a)(1).

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<sup>2</sup>*See* Gov’t Code § 552.117; Open Records Decision No. 622 at 4 (1994) (legislative history makes clear that purpose of section 552.117 is to protect public employees from being harassed *at home*) (citing House Committee on State Affairs, Bill Analysis, H.B. 1976, 69th Leg. (1985)).

In summary, the district must withhold Exhibit 2 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 courses taken, and the degree obtained, the district must withhold the transcripts submitted in Exhibit 3 under section 552.102(b) of the Government Code. The district must withhold the information you have marked, except where we have marked for release, under section 552.117(a)(1) of the Government Code. The remaining submitted information must be released to the requestor.

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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, 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 challenge 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 "Jennifer Luttrall". The signature is written in a cursive, flowing style.

Jennifer Luttrall  
Assistant Attorney General  
Open Records Division

JL/eeg

Ref: ID# 302999

Enc. Submitted documents

c: Ms. Velma Cortinas  
115 Sagebrush Trail  
Del Rio, Texas 78840  
(w/o enclosures)