



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 17, 2009

Mr. Montgomery Meitler
Assistant Counsel
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701-1494

OR2009-02049

Dear Mr. Meitler:

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# 338728 (TEA PIR# 10646).

The Texas Education Agency (the "agency") received a request for the educator certification examination score for a named educator and any related reprimands or restrictions. You state that the agency does not have any responsive information regarding restrictions or reprimands related to the named educator's certification.¹ You also state that the examination score 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 protected by other statutes. Section 552.101 encompasses section 21.048 of the Education Code, which provides in part:

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App. – San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

(c-1) The results of an examination administered under this section are confidential and are not subject to disclosure under [the Act] unless:

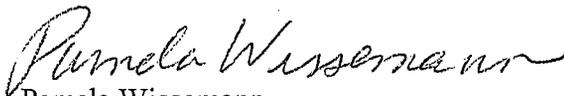
- (1) the disclosure is regarding notification to a parent of the assignment of an uncertified teacher to a classroom as required by Section 21.057; or
- (2) the educator has failed the examination more than five times.

Educ. Code § 21.048(c-1). You inform us that the submitted information consists of results of examinations administered under section 21.048 of the Education Code. You do not inform us that section 21.048(c-1)(1) is applicable. Furthermore, the information reflects that the named educator has not failed the examination more than five times. Thus, the agency must withhold the information as confidential under section 552.101 of the Government Code in conjunction with section 21.048(c-1) of the Education 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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Pamela Wissemann
Assistant Attorney General
Open Records Division

PFW/eb

Ref: ID# 338728

Enc. Submitted documents

c: Requestor
(w/o enclosures)