



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 26, 2009

Ms. Barbara Tate  
Copperas Code Independent School District  
703 West Avenue D  
Copperas Cove, Texas 76522

OR2009-02547

Dear Ms. Tate:

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# 335930.

The Copperas Cove Independent School District (the "district") received a request for information regarding three named coaches. You state you are releasing most of the requested information to the requestor. You state you have redacted student identifying information pursuant to the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232(a).<sup>1</sup> You claim that the remaining information is excepted from disclosure under sections 552.101 and 552.136 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 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

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<sup>1</sup>The Department of Education ("DOE") has informed this office that it is the responsibility of the educational agency or institution to make determinations under FERPA. Therefore, we will not address the applicability of FERPA to any of the submitted information. A copy of the DOE's letter may be found on the Office of the Attorney General's website at <http://www.oag.state.tx.us/open/20060725usdoe.pdf>.

§ 21.355. In addition, the court 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.” *North East Indep. Sch. Dist. v. Abbott*, 212 S.W.3d 364 (Tex. App.—Austin 2006, no pet.). 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 administrator. Open Records Decision No. 643 (1996). In that opinion, we 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.* In this instance, you state that Exhibit C “gives corrective action.” However, we note that the submitted memorandum does not describe any particular wrongdoing or adverse employment actions made by a coach named in the request. Rather, this memorandum merely instructs a the coach to refrain from discussing certain matters with the media. You also state that Exhibits D and E “contain judgments about an employee’s performance among supervisors.” However, this information consists only of general allegations and factual determinations related to complaints by parents. This information does not constitute an evaluation of the individuals’ performance as a teacher for the purposes of section 21.355. Accordingly, we find that you have failed to demonstrate that Exhibits C, D, and E constitute teacher evaluations subject to section 21.355 of the Education Code, and they may not be withheld under section 552.101 of the Government Code on that basis.

You raise section 552.136 for a portion of the submitted information. Section 552.136 provides that “[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” Gov’t Code § 552.136. An access device number is one that may be used to (1) obtain money, goods, services, or another thing of value, or (2) initiate a transfer of funds other than a transfer originated solely by paper instrument, and includes an account number. *Id.* § 552.136(a). Thus, you must withhold the bank account and routing numbers we have marked under section 552.136 of the Government Code. As you raise no further arguments against disclosure, 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.oag.state.tx.us/open/index\\_orl.php](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,

A handwritten signature in black ink, appearing to read "C. Alvarado". The signature is written in a cursive style with a large initial "C".

Christina Alvarado  
Assistant Attorney General  
Open Records Division

CA/cc

Ref: ID# 335930

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)