



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 4, 2009

Ms. Cheryl T. Mehl
Scwartz & Eichelbaum Wardell Mehl and Hansen, P.C.
Attorney for Decatur Independent School District
4201 West Parmer Lane, Suite A-100
Austin, Texas 78727

OR2009-17194

Dear Ms. Mehl:

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# 363545.

The Decatur Independent School District (the "district"), which you represent, received a request for any disciplinary or evaluation records for a named teacher during a specified time period. You claim that the submitted 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 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 exception encompasses information that other statutes make confidential. You raise section 552.101 in conjunction with section 21.355 of the Education Code, which 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 section 21.355 to apply to any document that evaluates, as that term is commonly understood, the performance of a teacher or an administrator: *See* ORD 643 at 3. Additionally, we determined that for the 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. *See id.* at 4. We note that a court has concluded that a written reprimand constitutes an evaluation for the 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.).

You contend that the submitted information is confidential under section 21.355. You state that the information at issue pertains to an individual employed by the district as a teacher who does hold a teaching certificate under subchapter B of chapter 21 of the Education Code. Based on your representations and our review of the submitted information, we conclude that the information we have marked is confidential under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code. However, we find you have not demonstrated that the remaining information constitutes an evaluation of a teacher for the purposes of section 21.355. We therefore conclude the district may not withhold any of the remaining information under section 552.101 on the basis of section 21.355. As no further arguments against disclosure are raised, 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, 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, toll free, at (888) 672-6787.

Sincerely,


Greg Henderson
Assistant Attorney General
Open Records Division

GH/rl

Ref: ID# 363545

Enc. Submitted documents

c: Requestor
(w/o enclosures)