



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 29, 2010

Ms. Meridith Hayes
Abernathy, Roeder, Boyd & Joplin, P.C.
For Argyle Independent School District
P.O. Box 1210
McKinney, Texas 75070-1210

OR2010-04396

Dear Ms. Hayes:

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# 373970.

The Argyle Independent School District (the "district"), which you represent, received a request for "performance evaluations[,] letters of reprimand, censure, warning, or other correspondence intended as a disciplinary measure or warning" pertaining to a former district superintendent. You state that the district will withhold a portion of the requested information in reliance upon a prior ruling of this office. *See* Open Records Letter No. 2008-04616 (2008); *see also* Open Records Decision No. 673 (2001) (so long as law, facts, circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). You state that some responsive information will be released to the requestor. You state you have notified the individual to whom the requested information relates pursuant to section 552.304 of the Government Code. *See* Gov't Code § 552.304 (any person may submit written comments stating why information at issue in request for Attorney General ruling should or should not be released). As of the date of this letter, we have not received any arguments from the interested third party regarding the information at issue. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.102, 552.116, and 552.135 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. 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 “administrator” means a person who is required to and does in fact hold an administrator’s certificate under subchapter B of chapter 21 of the Education Code, and is performing the functions of an administrator, as that term is commonly defined, at the time of the evaluation. *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.” *Abbott v. North East Indep. Sch. Dist.*, 212 S.W.3d 364 (Tex. App.—Austin 2006, no pet.).

The submitted information consists of two notices to the superintendent from the board of trustees, which you assert are confidential under section 21.355 as evaluative documents of a district administrator. You state the individual at issue held the appropriate certificate and was serving as an administrator at the time of the evaluations. Upon review of the information at issue, we conclude the submitted records are evaluations that are confidential under section 21.355 of the Education Code and must be withheld under section 552.101 of the Government Code.¹

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

¹As our ruling is dispositive, we do not address your remaining claims.

Ref: ID# 373970

Enc. Submitted documents

c: Requestor
(w/o enclosures)