



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 22, 2011

Ms. Christine Badillo  
Walsh, Anderson, Brown, Gallegos & Green, P.C.  
P.O. Box 2156  
Austin, Texas 78768

OR2011-02622

Dear Ms. Baudillo:

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# 409592.

The Leander Independent School District (the "district"), which you represent, received a request for specified correspondence from October 1, 2009, to the present. You state some information will be released to the requestor. You also state that you will redact home telephone numbers, home addresses, personal cellular telephone numbers, social security numbers, and family member information subject to section 552.117 of the Government Code under section 552.024 of the Government Code.<sup>1</sup> You additionally state that you have redacted information pursuant to Open Records Decision No. 684 (2009).<sup>2</sup> You claim that portions of the submitted information are excepted from disclosure under sections 552.101 and 552.102 of the Government Code. We have considered your arguments and reviewed the submitted information.

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<sup>1</sup>Section 552.024 of the Government Code authorizes a governmental body to withhold information subject to section 552.117 of the Government Code without requesting a decision from this office if the employee or official or former employee or official chooses to not allow public access to this information. *See* Gov't Code §§ 552.117, .024(c)(2).

<sup>2</sup>Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold ten categories of information without the necessity of requesting an attorney general decision.

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 21.355 of the Education Code provides that "[a] document evaluating the performance of a teacher or administrator is confidential." Educ. Code § 21.355. This office has interpreted section 21.355 to apply to any document that evaluates, as that term is commonly understood, the performance of a teacher or administrator. *See* Open Records Decision No. 643 (1996). In Open Records Decision No. 643, we determined that an "administrator" for purposes of section 21.355 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.

You state that Exhibit 2 relates to the evaluation of an administrator who held the appropriate administrator's certification and was functioning as an administrator at the time of the evaluation. Based on your representations and our review of the information at issue, we conclude that Exhibit 2 consists of an administrator evaluation for the purposes of section 21.355, and 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 next claim that Exhibits 3 and 4 contain the date of birth of a former public employee which is excepted from disclosure under section 552.102(a) of the Government Code. Section 552.102(a) excepts from disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Gov't Code § 552.102(a). The Texas Supreme Court recently held section 552.102(a) excepts from disclosure the dates of birth of state employees in the payroll database of the Texas Comptroller of Public Accounts. *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex. & The Dallas Morning News, Ltd.*, No. 08-0172, 2010 WL 4910163 (Tex. Dec. 3, 2010) (Dec. 20, 2010, motions for reconsideration and rehearing pending). Having carefully reviewed the information at issue, we agree the information you have marked in Exhibits 3 and 4 must be withheld under section 552.102(a) of the Government Code.

Next, you claim the marked portions of Exhibit 4 are excepted from disclosure under section 552.102(b) of the Government Code. Section 552.102(b) excepts from disclosure all information from higher education transcripts of professional public school employees other than the employee's name, the courses taken, and the degree obtained. Gov't Code § 552.102(b); Open Records Decision No. 526 (1989). Most of the information you have marked is contained on transcripts from institutes of higher education. Thus, we agree the district must withhold the information you have marked in the transcripts pursuant to section 552.102(b) of the Government Code. However, you have also marked grade information under section 552.102(b) on a portion of an employment application. Because this document is not a transcript from an institute of higher education, we conclude

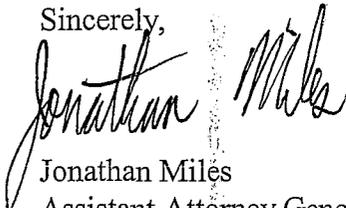
section 552.102(b) is inapplicable to it. Consequently, no portion of this document, which we have marked, may be withheld under section 552.102(b) of the Government Code.

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. The district must withhold the information you have marked in Exhibits 3 and 4 under section 552.102(a) of the Government Code. The district must also withhold the transcript information you have marked under section 552.102(b) of the Government Code. 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, toll free, at (888) 672-6787.

Sincerely,



Jonathan Miles  
Assistant Attorney General  
Open Records Division

JM/em

Ref: ID# 409592

Enc. Submitted documents

c: Requestor  
(w/o enclosures)