



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 27, 2011

Ms. Allyson Collins  
Coordinator of Records and Legal Services  
Eanes Independent School District  
601 Camp Craft Road  
Austin, Texas 78746

OR2011-07558

Dear Ms. Collins:

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# 418953.

The Eanes Independent School District (the "district") received a request for eleven categories of information pertaining to a named district teacher and district policies.<sup>1</sup> You state the district has redacted information pursuant to the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g.<sup>2</sup> You further state the district has released some of the requested information with redactions pursuant to sections 552.024 and 552.147 of the

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<sup>1</sup>You state the district received clarification of the request for information. *See* Gov't Code § 552.222(b) (stating that if information requested is unclear, governmental body may ask requestor to clarify request).

<sup>2</sup>The United States Department of Education Family Policy Compliance Office (the "DOE") has informed this office that FERPA does not permit state and local educational authorities to disclose to this office, without parental consent, unredacted, personally identifiable information contained in education records for the purpose of our review in the open records ruling process under the Act. The DOE has determined that FERPA determinations must be made by the educational authority in possession of the education records. We have posted a copy of the letter from the DOE to this office on the Attorney General's website: <http://www.oag.state.tx.us/open/20060725usdoe.pdf>.

Government Code and Open Records Decision No. 684 (2009).<sup>3</sup> You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.102 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, including 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. 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 at 3 (1996). Additionally, this office has determined 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 serving as a teacher at the time of the evaluation. *Id.* at 4.

You assert the information in Exhibit B consists of evaluations of the teacher named in the request. You state, and have provided documentation showing, the employee was required to hold and did hold a certificate or permit required under chapter 21 of the Education Code at the time of the evaluations. Based on your representations and our review, we agree the information in Exhibit B constitutes teacher evaluations for purposes of section 21.355 of the Education Code. Thus, the district must withhold the information in Exhibit B under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code.

We note the information in Exhibit C includes a copy of the employee's Texas driver's license and other Texas motor vehicle information. Section 552.130 excepts from disclosure "information [that] relates to . . . a motor vehicle operator's or driver's license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this

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<sup>3</sup>We note section 552.024(c) of the Government Code authorizes a governmental body to redact, without the necessity of requesting a decision from this office, the home address, home telephone number, social security number, and family member information of a current or former employee who properly elected to keep his information confidential. Gov't Code § 552.024(c). Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. *See id.* § 552.147(b). Furthermore, Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver's license numbers under section 552.130 of the Government Code and e-mail addresses of members of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

state[.]”<sup>4</sup> Gov’t Code § 552.130(a)(1)-(2). The district must withhold the copy of the Texas driver’s license and the other Texas motor vehicle record information, which we have marked, under section 552.130 of the Government Code.<sup>5</sup>

You claim portions of the transcripts in Exhibit C 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). We agree that the district must withhold the named employee’s educational transcripts under section 552.102(b) of the Government Code, except for the information that reveals the employee’s name, the degree obtained, and the courses taken.<sup>6</sup> See Open Records Decision No. 526 (1989) (addressing statutory predecessor).

You claim portions of the remaining information in Exhibit C, which you have marked, are 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). Having carefully reviewed the information at issue, we agree the information you have marked in Exhibit C must be withheld under section 552.102(a) of the Government Code.

In summary, the district must withhold Exhibit B under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code. The district must withhold the copy of the employee’s Texas driver’s license and the additional information we have marked under section 552.130 of the Government Code. The district must withhold the named employee’s educational transcripts in Exhibit C under section 552.102(b) of the Government Code, except for the information that reveals the employee’s name, the degree obtained, and the courses taken. The district must withhold the information you have marked

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<sup>4</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

<sup>5</sup>As our ruling is dispositive, we need not address your argument under section 552.102(a) of the Government Code for this information. We also note Open Records Decision No. 684 authorizes a governmental body to withhold a copy of a Texas driver’s license under section 552.130 of the Government Code without seeking a decision from this office.

<sup>6</sup>As our ruling is dispositive, we do not address your remaining argument against the disclosure of this information.

in Exhibit C under section 552.102(a) 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,



Kate Hartfield  
Assistant Attorney General  
Open Records Division

KH/em

Ref: ID# 418953

Enc. Submitted documents

c: Requestor  
(w/o enclosures)