



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 9, 2012

Ms. Merri Schneider-Vogel
Thompson & Horton, LLP
For Houston Heights Learning Academy
3200 Southwest Freeway, Suite 2000
Houston, Texas 77027

OR2012-00411

Dear Ms. Schneider-Vogel:

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# 441765.

The Houston Heights Learning Academy (the "academy"), which you represent, received a request for (1) the complete personnel file of a named individual, (2) all board meeting minutes for meetings the named individual attended for the Shared Services Arrangement (the "SSA"), (3) all teachers or other employees paid under the SSA for the academy, (4) all invoices of teachers at the academy paid under the SSA, (5) checks paid to those individuals for SSA services, and (6) all checks paid to the academy from the SSA. You have withheld some information pursuant to Open Records Decision No. 684 (2009).¹ You claim 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.

Initially, we note you have only submitted information responsive to item one of the request. Although you state you submitted a representative sample of information, we find the

¹We note this office issued Open Records Decision No. 684, a previous determination to all governmental bodies authorizing them to withhold specific categories of information without the necessity of requesting an attorney general decision, including: W-4 forms under section 552.101 of the Government Code in conjunction with section 6103(a) of title 26 of the United States Code.

submitted information is not representative of the information sought in items two through six of the request. Please be advised this letter ruling applies to the types of information you have submitted for our review. Therefore, this opinion does not reach, and therefore does not authorize, the withholding of any other requested information to the extent that the other information is substantially different than that submitted to this office. Gov't Code § 552.302 (where request for attorney general decision does not comply with requirements of section 552.301, information at issue is presumed to be public). Accordingly, because you have not submitted information responsive to the remaining portions of the request for our review, we assume you have released it. *See id.* §§ 552.301(e)(1)(D), .302. If the academy has not released this information, the academy must do so at this time. *See id.*; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to the requested information, it must release the information as soon as possible).

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, in relevant part, as follows:

- (a) A document evaluating the performance of a teacher or administrator is confidential.

- (b) Subsection (a) applies to a teacher or administrator employed by an open-enrollment charter school regardless of whether the teacher or administrator is certified under Subchapter B.

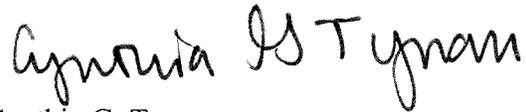
Educ. Code § 21.355(a), (b). This office has interpreted section 21.355 to apply to any document that evaluates, as that term is commonly understood, the performance of a teacher or administrator. *See* Open Records Decision No. 643 (1996). You argue the submitted information consists of evaluations of the named employee in her performance as a teacher at the academy, an open-enrollment charter school. Upon review, we find the submitted information constitutes evaluations that are confidential under section 21.355(a) of the Education Code and must be withheld pursuant to section 552.101 of the Government Code.

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,

A handwritten signature in black ink that reads "Cynthia G. Tynan". The signature is written in a cursive style with a large, stylized initial "C".

Cynthia G. Tynan
Assistant Attorney General
Open Records Division

CGT/em

Ref: ID# 441765

Enc. Submitted documents

c: Requestor
(w/o enclosures)