



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 7, 2012

Mr. Christopher B. Gilbert  
Thompson & Horton LLP  
3200 Southwest Freeway, Suite 2000  
Houston, Texas 77027

OR2012-01887

Dear Mr. Gilbert:

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# 444649.

The Houston Independent School District (the "district"), which you represent, received a request for all evaluation documents the nine district trustees submitted for the superintendent's performance appraisal and the annual performance appraisal that aggregates all input received from the nine district trustees. You claim the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted sample of information.<sup>1</sup>

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, such as 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

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<sup>1</sup>We assume the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

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.

You contend the submitted information constitutes a confidential evaluation of the district’s superintendent. You inform us, and provide documentation showing, the superintendent was certified as an administrator by the State Board of Educator Certification and was acting as an administrator at the time the evaluation was prepared. Based on your representations and our review, we conclude the submitted information is confidential under section 21.355 of the Education Code and must be withheld under section 552.101 of the Government Code on that basis.

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,



Karen Hattaway  
Assistant Attorney General  
Open Records Division

KEH/sdk

Ref: ID# 444649

Enc. Submitted documents

c: Requestor  
(w/o enclosures)