



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 2, 2013

Ms. Sara Hardner Leon
Powell & Leon, L.L.P.
1706 West Sixth Street
Austin, Texas 78703

OR2013-00003

Dear Ms. Leon:

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# 475978.

The Latexo Independent School District (the "district"), which you represent, received two requests from the same requestor for information pertaining to (1) the requestor's child and (2) complaints made and disciplinary actions taken against named employees. You state the district has forwarded some of the requested information to the requestor but 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.

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, including section 21.355 of the Education Code. Section 21.355(a) provides "[a] document evaluating the performance of a teacher or administrator is confidential." Educ. Code § 21.355(a). Additionally, the court has concluded that a written reprimand constitutes an evaluation for purposes of section 21.355 as it "reflects the principal's judgment regarding [a teacher's] actions, gives corrective direction, and provides for further review." *N. E. Indep. Sch. Dist. v. Abbott*, 212 S.W.3d 364 (Tex. App.—Austin 2006, no pet.). 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. See Open Records Decision No. 643 at 3 (1996). We also determined a "teacher" for purposes of section 21.355 means a person who (1) is

required to and does in fact hold a teaching certificate under subchapter B of chapter 21 of the Education Code or a school district teaching permit under section 21.055 and (2) is engaged in the process of teaching, as that term is commonly defined, at the time of the evaluation. *See id.* at 4.

You assert the information at issue evaluates the performance of a teacher who holds the appropriate certificate for purposes of section 21.355. However, upon review, we find the submitted information does not evaluate the teacher at issue for purposes of section 21.355. This information also relates to the teacher's duties as a coach. *See generally* Educ. Code § 21.353 (teachers shall be appraised only on basis of classroom teaching performance and not in connection with extracurricular activities). Thus, we conclude you have not established the information is confidential under section 21.355 and the district may not withhold it under section 552.101 on that ground. Accordingly, the district must release the submitted information to the requestor.

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tch

Ref: ID# 475978

Enc. Submitted documents

c: Requestor
(w/o enclosures)