



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 2, 2013

Mr. Joseph L. Parks  
Executive Director  
Safety and Security Services  
Plano Independent School District  
2700 West 15th Street  
Plano, Texas 75075

OR2013-11272

Dear Mr. Parks:

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# 492230 (PIR No. 2013-104).

The Plano Independent School District (the "district") received a request for information pertaining to a specified incident that occurred on a specified date.<sup>1</sup> You state the district has redacted information subject to section 552.117 of the Government Code as permitted by section 552.024(c) of the Government Code.<sup>2</sup> You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. You state you have notified the individual to whom the requested information relates. *See Gov't Code* § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the exception you claim and reviewed the submitted information.

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

<sup>2</sup>Section 552.117 of the Government Code excepts from disclosure the home addresses and telephone numbers, emergency contact information, social security numbers, and family member information of current or former officials or employees of a governmental body. *See Gov't Code* § 552.117(a)(1). Section 552.024 of the Government Code authorizes a governmental body to withhold information subject to section 552.117 without requesting a decision from this office if the current or former employee or official chooses not to allow public access to the information. *See id.* § 552.024(c).

Initially, we understand the district has withheld educational records pertaining to a district student based on the provisions of the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g. 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 or an adult student's consent, unredacted, personally identifiable information contained in education records for the purpose of our review in the open records ruling process under the Act.<sup>3</sup> Consequently, state and local educational authorities that receive a request for education records from a member of the public under the Act must not submit education records to this office in unredacted form, that is, in a form in which "personally identifiable information" is disclosed. *See* 34 C.F.R. § 99.3 (defining "personally identifiable information"). Because our office is prohibited from reviewing the education records at issue to determine whether appropriate redactions under FERPA have been made, we will not address the applicability of FERPA to any of this information, other than to note that parents have a right of access to their child's educational records. *See* 20 U.S.C. § 1232g(a)(1)(A); 34 § C.F.R 99.3. Such determinations under FERPA must be made by the educational authority in possession of the education records. However, to the extent the educational records the district has withheld are not governed by FERPA, we assume the district has released this information. If the district has not released any such information, it must do so at this time. Gov't Code §§ 552.301(a), .302; *see also* ORD 664. We will, however, consider your arguments against disclosure of 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, such as section 21.355 of the Education Code. Section 21.355 provides that "[a] document evaluating the performance of a teacher or administrator is confidential." Educ. Code § 21.355. In addition, the court has concluded a written reprimand constitutes an evaluation for purposes of section 21.355 because "it reflects the principal's judgment regarding [a teacher's] actions, gives corrective direction, and provides for further review." *North East Indep. Sch. Dist. v. Abbott*, 212 S.W.3d 364 (Tex. App.—Austin 2006, no pet.). 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 (1996). In that opinion, we concluded that 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 teaching at the time of his or her evaluation. *See id.* at 4. This office also has concluded an "administrator" is someone who is required to hold and does hold a certificate required under chapter 21 of the Education Code and is administering at the time of the evaluation. *See id.*

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<sup>3</sup>A copy of this letter may be found on the Office of the Attorney General's website: <http://www.oag.state.tx.us/open/20060725usdoe.pdf>.

You assert the submitted information is confidential under section 21.355 of the Education Code. Upon review, we find the information we have marked constitutes a document that evaluates the performance of a teacher. You state the individual at issue was employed by the district and held the appropriate teacher certification at the time the information was created. Accordingly, the district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code. However, we find none of the remaining information constitutes an evaluation of an individual's performance as a teacher or administrator for the purposes of section 21.355. Therefore, we find you have failed to demonstrate the remaining information constitutes teacher or administrator evaluations subject to section 21.355 of the Education Code, and it may not be withheld under section 552.101 of the Government Code on that basis. As you raise no further exception to disclosure, 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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Jeffrey W. Giles  
Assistant Attorney General  
Open Records Division

JWG/dls

Ref: ID# 492230

Enc. Submitted documents

c: Requestor  
(w/o enclosures)