



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 9, 2014

Ms. Katheryne MarDock  
Assistant General Counsel  
Public Information Office - Box 99  
Houston Independent School District  
4400 West 18th Street  
Houston, Texas 77092-8501

OR2014-00533

Dear Ms. MarDock:

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# 510484.

The Houston Independent School District (the "district") received a request for school assignments, teacher evaluations or disciplinary records, and any other documents for a named former district employee. 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 documents responsive to the portion of the request seeking "teacher evaluation[s] or disciplinary records." To the extent any additional responsive information existed when the district received the request for information, we assume it has been released. If any such information has not been released, the district must do so at this time. *See* Gov't Code §§ 552.301, .302; *see also* Open Records Decision No. 644 (2000) (if governmental body concludes no exceptions apply to requested information, it must release 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. Section 552.101 encompasses section 21.355 of the Education Code. Section 21.355 provides, in relevant part, "[a] document evaluating the performance of a teacher or administrator is confidential." Educ. Code § 21.355(a). 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). In Open Records Decision No. 643, we determined for purposes of section 21.355, the word “teacher” means a person who is required to and does in fact hold a teaching certificate under subchapter B of chapter 21 of the Education Code and who is in the process of teaching, as that term is commonly defined, at the time of the evaluation. *See id.* at 4. The Third Court of Appeals 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.” *Abbott v. North East Indep. Sch. Dist.*, 212 S.W.3d 364 (Tex. App.—Austin 2006, no pet.).

You contend the submitted information consists of evaluations of the named former employee. You also provide documentation showing that the former employee held the requisite certificate under chapter 21 of the Education Code. Based on your representation and our review, we find 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.

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,



Rashandra C. Hayes  
Assistant Attorney General  
Open Records Division

RCH/dls

Ref: ID# 510484

Enc. Submitted documents

c: Requestor  
(w/o enclosures)