



February 9, 2015

Mr. Joseph E. Hoffer  
Counsel for the Student Alternative Program, Inc.  
Schulman, Lopez & Hoffer, L.L.P.  
517 Soledad Street  
San Antonio, Texas 78205-1508

OR2015-00632A

Dear Mr. Hoffer:

Our office issued Open Records Letter No. 2015-00632 (2015) on January 13, 2015. We have examined this ruling and determined that an error was made in its issuance. When this office determines that an error was made in the decision process under sections 552.301 and 552.306 of the Government Code, and that error resulted in an incorrect decision, we will correct the previously issued ruling. Consequently, this decision serves as the corrected ruling and is a substitute for the decision issued on January 13, 2015. *See generally* Gov't Code § 552.011 (providing that Office of Attorney General may issue decision to maintain uniformity in application, operation, and interpretation of Public Information Act (the "Act"))).

You ask whether certain information is subject to required public disclosure under the Act. Your request was assigned ID# 558853.

Student Alternatives Program, Inc. ("SAPI"), which you represent, received a request for several categories of information pertaining to the campus directors at three specified SAPI campuses, including salary information, educational background, work experience, and evaluations.<sup>1</sup> You state SAPI does not have information responsive to a portion of the

---

<sup>1</sup>We note SAPI sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 3 80, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

request.<sup>2</sup> You state you have released some information to the requestor. You state you will withhold social security numbers pursuant to section 552.147(b) of the Government Code.<sup>3</sup> You claim the submitted information is excepted from disclosure under sections 552.101 and 552.102 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code encompasses section 21.355 of the Education Code, which provides in part:

(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 an administrator. *See* Open Records Decision No. 643 (1996). 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.” *See Abbott v. North East Indep. Sch. Dist.*, 212 S.W.3d 364 (Tex. App.—Austin 2006, no pet.).

You assert Exhibit 3 consists of confidential evaluations of an administrator at SAPI, which is a Texas open-enrollment charter school. Upon review, we find the information submitted as Exhibit 3 consists of administrator evaluations. Accordingly, Exhibit 3 is confidential under section 21.355 and must be withheld under section 552.101. *See* ORD 643 at 4.

Section 552.102(b) of the Government Code excepts from public disclosure “a transcript from an institution of higher education maintained in the personnel file of a professional public school employee[.]” Gov’t Code § 552.102(b). This exception further provides, however, that “the degree obtained or the curriculum on a transcript in the personnel file of the employee” are not excepted from disclosure. *Id.*; *see also* Open Records Decision No. 526 (1989). Thus, with the exception of the employees’ names, courses taken, and

---

<sup>2</sup>The Act does not require a governmental body to release information that did not exist when it received a request or to create responsive information. *See Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App. — San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

<sup>3</sup>Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. *See* Gov’t Code § 552.147(b).

degrees obtained, SAPI must withhold the submitted college transcripts in Exhibit 2 pursuant to section 552.102(b) of the Government Code.<sup>4</sup>

In summary, Exhibit 3 is confidential under section 21.355 of the Education Code and must be withheld under section 552.101 of the Government Code. With the exception of the employees' names, courses taken, and degrees obtained, SAPI must withhold the submitted college transcripts in Exhibit 2 pursuant to section 552.102(b) of the Government Code. SAPI must release the remaining information.

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,



Abigail T. Adams  
Assistant Attorney General  
Open Records Division

ATA/akg

Ref: ID# 558853

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

---

<sup>4</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.