



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 28, 2015

Mr. Randall J. Cook
Counsel for the Whitehouse Independent School District
Hardy Cook & Hardy
2080 Three Lakes Parkway
Tyler, Texas 75703

OR2015-20322

Dear Mr. Cook:

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# 580825.

The Whitehouse Independent School District (the "district"), which you represent, received a request for several categories of information pertaining to a named district employee. You state the district has made some information available to the requestor. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ 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. Section 552.101 encompasses 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(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 an administrator. *See* Open Records Decision No. 643 (1996). This office has

¹We note the district failed to comply with section 552.301 of the Government Code in requesting a ruling; however, section 552.101 of the Government Code is a mandatory exception that constitutes a compelling reason to withhold information sufficient to overcome the presumption of openness caused by a failure to comply with section 552.301. *See* Gov't Code §§ 552.007, .301, .302, .352. Accordingly, we will consider the district's argument under section 552.101.

concluded an “administrator” for purposes of section 21.355 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.*

You contend the submitted information consists of evaluations of an administrator. You state the named individual held an administrator’s certificate under subchapter B of chapter 21 of the Education Code. You further state the named individual is employed in the position of Director of Career and Technology and administers the district’s Career and Technical Education program. You state the submitted documents are performance evaluations made by the named individual’s supervisors while she was performing in her capacity as director of the Career and Technical Education program. Upon review, we find the submitted information constitutes evaluations as contemplated by section 21.355(a). Accordingly, the district must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 21.355(a) of the Education 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, 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# 580825

Enc. Submitted documents

c: Requestor
(w/o enclosures)