



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 24, 2017

Ms. Haley Turner  
Counsel for the Georgetown Independent School District  
Walsh Gallegos Trevino Russo & Kyle, P.C.  
P.O. Box 2156  
Austin, Texas 78768

OR2017-06100

Dear Ms. Turner:

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# 650432.

The Georgetown Independent School District (the "district"), which you represent, received three requests from the same requestor for the personnel files of three named individuals and all emails between named individuals and district employees. You state you have released some information. You state the district has redacted information subject to section 552.147(b) of the Government Code and section 552.024(c) of the Government Code.<sup>1</sup> You claim the submitted information is excepted from disclosure under

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<sup>1</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). Section 552.024(c)(2) of the Government Code authorizes a governmental body to redact information protected by section 552.117(a)(1) of the Government Code without the necessity of requesting a decision under the Act if the current or former employee or official to whom the information pertains timely chooses not to allow public access to the information. *See id.* § 552.024(c)(2). If a governmental body redacts such information, it must notify the requestor in accordance with subsections 552.024(c-1) and (c-2). *See id.* § 552.024(c-1)-(c-2).

sections 552.101 and 552.102 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>2</sup>

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(a) 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). We have determined that for purposes of section 21.355, “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 or a school district teaching permit under section 21.055 and who is engaged in the process of teaching, as that term is commonly defined, at the time of the evaluation. *See id.* at 4. We also have determined that for purposes of section 21.355, “administrator” 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. *Id.* We further determined that “teacher interns, teacher trainees, librarians, educational aids and counselors cannot be teachers or administrators for purposes of section 21.355.” *See* Open Records Decision No. 684 at 5 (2009).

You contend Exhibit 3 contains evaluations of a teacher or administrator that are confidential under section 21.355 of the Education Code. You state, and provide documentation showing, the individuals at issue held the appropriate certificates at the time of the creation of the evaluations and were functioning as teachers or administrators at the time of the evaluations. Based on your representations and our review, except for the information we marked for release, the district must withhold Exhibit 3 under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code. However, we note Exhibit 3 contains an evaluation that pertains to an employee’s performance as a counselor. Thus, we find you have not shown the information at issue evaluates the performance of a teacher or administrator for the purposes of section 21.355. Therefore, the district may not withhold any portion of the remaining information under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code.

Section 552.102(b) of the Government Code excepts from disclosure higher education transcripts of professional public school employees, but does not except the employee’s name, the courses taken, and the degree obtained from disclosure. Gov’t Code § 552.102(b);

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<sup>2</sup>We assume the “representative sample” of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

*see also* Open Records Decision No. 526 (1989). Thus, with the exception of the employee's name, courses taken, and degree obtained, the district must withhold the submitted transcripts pursuant to section 552.102(b) of the Government Code.

In summary, except for the information we marked for release, the district must withhold Exhibit 3 under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code. With the exception of the employee's name, courses taken, and degree obtained, the district must withhold the submitted transcripts pursuant to section 552.102(b) of the Government Code. 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,



Emily Buchanan  
Assistant Attorney General  
Open Records Division

EB/eb

Ref: ID# 650432

Enc. Submitted documents

c: Requestor  
(w/o enclosures)