



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 22, 2017

Mr. Douglas R. Brock
Counsel for the Dilley Independent School District
Walsh Gallegos Treviño Russo & Kyle, P.C.
P. O. Box 2156
Austin, Texas 78768

OR2017-11120

Dear Mr. Brock:

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# 664785.

The Dilley Independent School District (the "district"), which you represent, received a request for a named district employee's personnel file. You state the district has released some information to the requestor. 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 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses section 21.355 of the Education Code. Section 21.355(a) provides "[a] document evaluating the performance of a teacher or administrator is confidential." Educ. Code § 21.355(a). Additionally, the Third Court of Appeals has concluded that a written reprimand constitutes an evaluation for purposes of section 21.355 as it "reflects the principal's judgment regarding [a teacher's] actions, gives corrective direction, and provides for further review." *N. E. Indep. Sch. Dist. v. Abbott*, 212 S.W.3d 364 (Tex. App.—Austin 2006, no pet.). 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. *See Open Records Decision No. 643 at 3 (1996)*. We also determined a "teacher" for purposes of section 21.355 means a person who (1) 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 (2) is engaged in the process of teaching, as that term is commonly defined, at the time of the evaluation. *See id.* at 4.

You contend the information you have marked as Exhibit 2 is confidential because it consists of evaluations of a certified teacher under Chapter 21 of the Education Code. You provide documentation demonstrating showing the individual at issue held the appropriate teacher certification at the time of the evaluations. Upon review, we find the information at issue consists of confidential evaluations under section 21.355 of the Education Code. Accordingly, the district must withhold Exhibit 2 under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code.

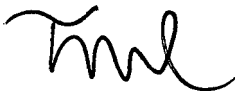
Section 552.102(b) of the Government Code excepts from disclosure “a transcript from an institution of higher education maintained in the personnel file of a professional public school employee[.]” Gov’t Code § 552.102(b). This exception further provides, however, “the degree obtained or the curriculum on a transcript in the personnel file of the employee” are not excepted from disclosure. *Id.* Upon review, we find the district must withhold the information you have marked Exhibit 4 under section 552.102(b) of the Government Code, except for the information that reveals the employee’s name, the degree obtained, and the courses taken. *See* Open Records Decision No. 526 (1989) (addressing statutory predecessor).

In summary, the district must withhold Exhibit 2 under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code and Exhibit 4 under section 552.102(b) of the Government Code, except for the information that reveals the employee’s name, the degree obtained, and the courses taken.

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,

A handwritten signature in black ink, appearing to read "Tim Neal", written in a cursive style.

Tim Neal
Assistant Attorney General
Open Records Division

TN/nmd

Ref: ID# 664785

Enc. Submitted documents

c: Requestor
(w/o enclosures)