



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 1, 2019

Ms. Anne Marie Odefey
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Roberts, Odefey, Witte & Wall, L. L. P.
P.O. Box 9
Port Lavaca, Texas 77979

OR2019-11579

Dear Ms. Odefey:

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# 763232.

The Calhoun County Independent School District (the "district"), which you represent, received a request for employment records related to a named former district employee. The district states it is withholding information subject to section 552.117 of the Government Code as permitted by section 552.024(c) of the Government Code.¹ The district also states it is withholding social security numbers pursuant to section 552.147(b) of the Government

¹Section 552.117 of the Government Code exempts from disclosure the home addresses and telephone numbers, emergency contact information, and family member information of current or former officials or employees of a school district. *See* Gov't Code § 552.117(a)(1). Section 552.024 of the Government Code authorizes a governmental body to withhold information subject to section 552.117 without requesting a decision from this office if the current or former employee or official chooses not to allow public access to the information. *See id.* § 552.024(c).

Code.² The district indicates it is releasing some of the requested information. The district claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception the district claims 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 information protected by other statutes. Section 21.355 of the Education Code 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 district argues the submitted information consists of confidential evaluations of the named teacher by the district. The submitted information reveals the named teacher was acting as a teacher at the time the evaluations were prepared. However, the district does not inform us whether the named teacher was certified as a teacher by the State Board of Educator Certification. Accordingly, we must rule conditionally. If the named teacher held a teaching certificate or permit under chapter 21 of the Education Code when the information was created, the district must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code. If the named teacher did not hold a teaching certificate or permit under chapter 21 of the Education Code when the information was created, the submitted information is not confidential under section 21.355 of the Education Code and it may not be withheld on that basis under section 552.101 of the Government Code. In that instance, the district must release the submitted 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.

²Section 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 id.* § 552.147(b).

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,



Kieran Hillis
Assistant Attorney General
Open Records Division

KH/jxd

Ref: ID# 763232

Enc. Submitted documents

c: Requestor
(w/o enclosures)