



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 6, 2019

Ms. JoAnna Talley  
Public Information Coordinator  
Fort Worth Independent School District  
100 North University Drive, Suite SW 172  
Fort Worth, Texas 76107

OR2019-15007

Dear Ms. Talley:

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# 769466 (Reference No. W002672).

The Fort Worth Independent School District (the "district") received a request for three categories of information pertaining to a specified high school and a named individual. 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.

Initially, we note the requestor has excluded from the request for information, among other items, transcript grades, evaluations, personal e-mail addresses, social security number, home address, personal telephone numbers, and family member information pertaining to the named individual. Therefore, such information is not responsive to the present request for information. This ruling does not address the public availability of any information that is not responsive to the instant request, and the district is not required to release that information in response to this request.

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, in relevant part, "[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 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.” *Abbott v. North East Indep. Sch. Dist.*, 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 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. We also determined for purposes of section 21.355, an “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 as an administrator, as that term is commonly defined, at the time of the evaluation. *Id.* We further determined “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). We note section 21.355 does not apply to evaluations relating to an individual’s duties as a coach. *See* Educ. Code § 21.353 (teachers shall be appraised only on basis of classroom teaching performance and not in connection with extracurricular activities).

You assert the responsive information consists of confidential evaluations of an administrator by the district. You inform us the administrator at issue held the appropriate certifications and was acting as an administrator at the time the evaluations were prepared. Upon review, we find you have failed to demonstrate the information at issue consists of documents evaluating the performance of a teacher or administrator for purposes of section 21.355. Therefore, the district may not withhold any of the responsive information under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code.

Section 552.102(a) of the Government Code excepts from disclosure “information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” Gov’t Code § 552.102(a). The Texas Supreme Court held section 552.102(a) excepts from disclosure the dates of birth of state employees in the payroll database of the Texas Comptroller of Public Accounts. *Tex. Comptroller of Pub. Accounts v. Attorney Gen. of Tex.*, 354 S.W.3d 336 (Tex. 2010). Thus, under *Texas Comptroller*, section 552.102(a) is applicable to the birth date of an employee of a governmental body in a record maintained by his or her employer in an employment context. Upon review, we find no portion of the information at issue is subject to section 552.102(a) of the Government Code, and the district may not withhold any of the responsive information on that basis.

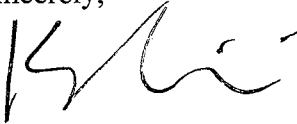
Section 552.102(b) of the Government Code excepts from public disclosure “a transcript from an institution of higher education maintained in the personnel file of a professional public school employee[.]” Gov’t Code § 552.102(b). However, section 552.102(b) does not except from public disclosure the employee’s name, “the degree obtained[.] or the curriculum on a transcript in the personnel file of the employee.” *Id.*; *see also* Open Records Decision No. 526 (1989). Upon review, we find you failed to demonstrate the applicability

of section 552.102(b) of the Government Code to any portion of the information at issue. Therefore, the district may not withhold any of the responsive information under section 552.102(b) of the Government Code. As you raise no further exceptions to disclosure, the district must release the responsive 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,



Kieran Hillis  
Assistant Attorney General  
Open Records Division

KH/mo

Ref: ID# 769466

Enc. Submitted documents

c: Requestor  
(w/o enclosures)