



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 5, 2020

Ms. Lindsey McPheeters
Assistant General Counsel
Round Rock Independent School District
1 Chisholm Trail, Suite 400
Round Rock, Texas 78681

OR2020-27844

Dear Ms. McPheeters:

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# 852838 (ORR# 2021-041).

The Round Rock Independent School District (the "district") received a request for information pertaining to a named employee. The district claims the submitted information is excepted from disclosure under sections 552.101 and 552.102 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

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, that "the degree obtained or the curriculum on a transcript in the personnel file of the employee" are not excepted from disclosure. *Id.* The district must withhold the submitted educational transcripts, which we have marked, 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).

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 has 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). Upon review, we find section

552.102(a) of the Government Code is not applicable to the remaining information. Accordingly, the district may not withhold any of the remaining information on that basis.

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). This office has interpreted section 21.355 to apply to any document that evaluates, as that term is commonly understood, the performance of an administrator. *See* Open Records Decision No. 643 at 3 (1996). We determined 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 as an administrator, as that term is commonly defined, at the time of the evaluation. *Id.*

The district asserts the remaining information consists of evaluations of the performance of an administrator who was acting as such at the time of the evaluations. However, the district does not inform us whether the administrator at issue was required to, and did in fact, hold an administrator’s certificate under subchapter B of chapter 21 of the Education Code at the time of the evaluations. Thus, we must rule conditionally. The district must withhold the evaluations we have marked under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code if the administrator at issue was required to, and did in fact, hold an administrator’s certificate under subchapter B of chapter 21 of the Education Code at the time of the evaluations. However, the district may not withhold the evaluations on that ground if the administrator either was not required to or did not hold an administrator’s certificate under subchapter B of chapter 21 of the Education Code at the time of the evaluations.

In summary, with the exception of the information that reveals the employee’s name, the degree obtained, and the courses taken, which the district must release, the district must withhold the educational transcripts we have marked under section 552.102(b) of the Government Code. The district must withhold the evaluations we have marked under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code if the administrator at issue was required to, and did in fact, hold an administrator’s certificate under subchapter B of chapter 21 of the Education Code at the time of the evaluations. However, the district must release these evaluations if the administrator either was not required to or did not hold an administrator’s certificate under subchapter B of chapter 21 of the Education Code at the time of the evaluations.

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open

Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/be

Ref: ID# 852838

Enc. Submitted documents

c: Requestor
(w/o enclosures)