



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 5, 2020

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

OR2020-27874

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# 852839 (ORR# 2021-092).

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 exception and reviewed the submitted representative sample of information.¹

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 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. N. E. Indep. Sch. Dist.*, 212 S.W.3d 364 (Tex. App.—Austin 2006, no pet.). This office has interpreted section 21.355 to apply

¹ 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.

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.

The district represents the information it has marked under section 21.355(a) evaluates the performance of a teacher who held the appropriate certificate at the time of the evaluations for purposes of section 21.355. Upon review, we find this information is confidential under section 21.355. Therefore, the district must withhold this information, which we have marked, under section 552.101 of the Government Code in conjunction with section 21.355(a) of the Education Code.²

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.³ *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.

In summary, the district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 21.355(a) of the Education Code. The district must also withhold the information we have marked under section 552.102(b) of the Government Code, 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 release the remaining 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.

² As our ruling is dispositive, we do not address the other argument of the district to withhold this information.

³ As our ruling is dispositive, we do not address the other argument of the district to withhold this information.

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/rm

Ref: ID# 852839

Enc. Submitted documents

c: Requestor
(w/o enclosures)