



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 2, 2022

Ms. Valeria E. Reyes  
Counsel for the Mathis Independent School District  
J. Cruz & Associates, L.L.C.  
216 West Village Boulevard, Suite 202  
Laredo, Texas 78041

OR2022-15876

Dear Ms. Reyes:

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# 951406.

The Mathis Independent School District (the "district"), which you represent, received a request for records pertaining to a named former employee. You state the district states it has redacted information subject to section 552.147(b) of the Government Code.<sup>1</sup> You state the district does not have some of the information responsive to the request.<sup>2</sup> 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 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).

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<sup>1</sup> The social security number of an employee of a school district in the custody of the district is confidential and may be redacted without the necessity of requesting a decision from this office. Gov't Code § 552.147(a-1), (b).

<sup>2</sup> The Act does not require a governmental body to disclose information that did not exist at the time the request was received. *Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.-San Antonio 1978, writ dism'd); Open Records Decision No. 452 at 3 (1986).

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. Upon review, we find the information in Exhibit D consists of evaluations of a teacher by the district. You inform us the former employee at issue was certified as a teacher by the State Board of Educator Certification and was acting as a teacher at the time the evaluations were prepared. Accordingly, the district must withhold the information in Exhibit D 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 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) further provides, “the degree obtained or the curriculum on a transcript in the personnel file of the employee” is not excepted from disclosure. *Id.*; *see also* Open Records Decision No. 526 (1989). Thus, with the exception of the employee’s name, courses taken, and degrees obtained, the district must withhold Exhibit E under section 552.102(b) of the Government Code.

In summary, the district must withhold the information in Exhibit D under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code. With the exception of the employee’s name, courses taken, and degrees obtained, the district must withhold Exhibit E under section 552.102(b) of the Government Code.

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,

Cesar Mata  
Attorney  
Open Records Division

CM/eb

Ref: ID# 951406

Enc. Submitted documents

c: Requestor  
(w/o enclosures)