



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 26, 2015

Ms. Christine Badillo
Counsel for Elgin Independent School District
Walsh, Anderson, Gallegos, Green and Trevino, P.C.
P.O. Box 2156
Austin, Texas 78768-2156

OR2015-12751

Dear Ms. Badillo:

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# 568970 (Ref. No. 94545).

The Elgin Independent School District (the "district"), which you represent, received a request for Elgin High School performance rating for the past five years and contracts, evaluations, complaints, and warnings for a named individual. You state you are releasing some information. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception 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. Section 552.101 encompasses section 21.355 of the Education Code, which provides that "[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 an administrator. *See* Open Records Decision No. 643 (1996). We have determined that for purposes of section 21.355, "administrator" means a person who is required to, and does in fact, hold an administrator's certificate under subchapter B of

¹We note the district failed to comply with section 552.301 of the Government Code in requesting a ruling; however, section 552.101 of the Government Code is a mandatory exception that constitutes a compelling reason to withhold information sufficient to overcome the presumption of openness caused by a failure to comply with section 552.301. *See* Gov't Code §§ 552.007, .301, .302, .352. Accordingly, we will consider the district's argument under section 552.101.

chapter 21 of the Education Code and is performing the functions of an administrator, as that term is commonly defined, at the time of the evaluation. *Id.* 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, 368 (Tex. App.—Austin 2006, no pet.).

You claim the information at issue is confidential under section 21.355 of the Education Code because it consists of evaluative documentation of a certified administrator under chapter 21. You inform us, and provide documentation showing, the administrator at issue held the appropriate certifications at the time of the evaluation. Based on your representations and our review, we find the information at issue constitutes a document evaluating the performance of an administrator as contemplated by section 21.355. Thus, the district must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 21.355 of the Education 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 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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/bhf

Ref: ID# 568970

Enc. Submitted documents

c: Requestor
(w/o enclosures)