



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 21, 2015

Ms. Lauren M. Wood
Counsel for the Leonard Independent School District
Abernathy Roeder Boyd & Hullett P.C.
P.O. Box 1210
McKinney, Texas 75070-1210

OR2015-26832

Dear Ms. Wood:

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# 597351.

The Leonard Independent School District (the "district"), which you represent, received a request for information pertaining to a specified employee.¹ You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. 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. 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). 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). The Third Court of Appeals has concluded a written reprimand

¹We note the district asked for and received clarification regarding this request. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information); *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

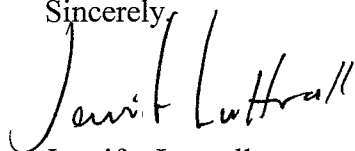
constitutes an evaluation for purposes of section 21.355 because “it reflects the principal’s judgment regarding [a teacher’s] actions, gives corrective direction, and provides for further review.” *Abbott v. North East Indep. Sch. Dist.*, 212 S.W.3d 364 (Tex. App.—Austin 2006, no pet.). In Open Records 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* ORD 643 at 4.

The district contends the submitted information consists of confidential evaluations of the teachers by the district. The district states the teacher at issue held a teaching certificate under chapter 21 of the Education Code at the time of the evaluations. *See* ORD 643 at 4. We understand the teacher at issue was engaged in the process of teaching at the time of the evaluations. Based on the district’s representations and our review, we find most of the submitted information constitutes evaluations subject to section 21.355. However, the district has failed to demonstrate the information we have marked for release consists of “[a] document evaluating the performance of a teacher or administrator” as contemplated by section 21.355. Accordingly, the district has not established the information we have marked for release is confidential under section 21.355, and may not withhold it under section 552.101 on that ground. Accordingly, except for the information we have marked for release, 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. The remaining information must be released.

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,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/akg

Ref: ID# 597351

Enc. Submitted documents

c: Requestor
(w/o enclosures)