



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 28, 2016

Mr. Hector M. Benavides
Counsel for the West Oso Independent School District
Walsh, Gallegos, Treviño, Russo & Kyle, P.C.
P.O. Box 460606
San Antonio, Texas 78246

OR2016-21860

Dear Mr. Benavides:

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# 628628.

The West Oso Independent School District (the "district"), which you represent, received a request for the personnel file of a named individual.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, such as section 21.355 of the Education Code, which provides in part that "[a] document evaluating the performance of a teacher or administrator is confidential." *See* 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 for purposes of section 21.355, the

¹You note the district sought and received clarification of the request. *See* Gov't Code § 552.222(b) (providing that if request for information is unclear, governmental body may ask requestor to clarify the request); *see also* *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 overbroad 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).

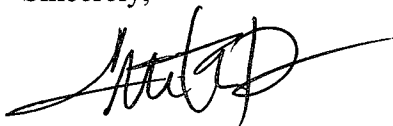
term “teacher” means a person who is required to and does in fact hold a teaching certificate or permit under subchapter B of chapter 21 of the Education Code and who is engaged in the process of teaching, as that term is commonly defined, at the time of the evaluation. *See* ORD 643 at 4. The Third Court of Appeals has concluded a written reprimand 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.” *See North East Indep. Sch. Dist. v. Abbott*, 212 S.W.3d 364 (Tex. App.—Austin 2006, no pet.).

You state the submitted information consists of the named teacher’s evaluations. You inform us this individual was required to, and held certification under subchapter B of chapter 21 of the Education Code at the time of the evaluations. You further state the individual at issue was performing the duties of a teacher at the time of the evaluations. Based on your representations and our review of the information, we find most of the submitted information is confidential under section 21.355 of the Education Code, and the district must withhold this information, which we have marked, under section 552.101 of the Government Code. However, we find you have failed to demonstrate the submitted teacher self-report form constitutes an evaluation of the teacher’s performance as contemplated by section 21.355 of the Education Code. Thus, the district may not withhold the teacher self-report form under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code. As you raise no other exceptions against disclosure of the self-report form, it 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,



Cristian Rosas-Grillet
Assistant Attorney General
Open Records Division

CRG/bw

Ref: ID# 628628

Enc. Submitted documents

c: Requestor
(w/o enclosures)