



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 7, 2017

Ms. Leticia D. McGowan
Assistant General Counsel
Dallas Independent School District
3700 Ross Avenue
Dallas, Texas 75204

OR2017-04864

Dear Ms. McGowan:

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# 648115 (ORR# 15838).

The Dallas Independent School District (the "district") received a request for information pertaining to specified grievances involving the requestor. You state you have released 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, "[a] document evaluating the performance of a teacher or administrator is confidential." Educ. Code § 21.355. This office has interpreted this section to apply to any document that evaluates, as that term is commonly understood, the performance of a teacher or administrator. Open Records Decision No. 643 (1996). In that opinion, this office also concluded a teacher is someone who is required to hold and does hold a certificate required under chapter 21 of the Education Code and is teaching at the time of his or her evaluation. *Id.* Additionally, this office concluded an administrator is someone who is required to and does hold an administrator's certificate under subchapter B of chapter 21 of the Education Code and is performing the functions of an administrator, as that term is commonly defined,

¹Although you also raise section 552.102 of the Government Code, you have not provided any arguments to support this exception. Therefore, we assume you have withdrawn your claim this section applies to the submitted information. *See* Gov't Code §§ 552.301, .302.

at the time of the evaluation. *Id.* In addition, the court 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 Abbott v. North East Indep. Sch. Dist.*, 212 S.W.3d 364 (Tex. App.—Austin 2006, no pet.). We further determined that “teacher interns, teacher trainees, librarians, educational aids and counselors cannot be teachers or administrators for purposes of section 21.355.” *See Open Records Decision No. 684 at 5 (2009).*

You assert the submitted information consists of written evaluations that are confidential under section 21.355 of the Education Code. However, we note the information at issue pertains to the employee’s performance as a counselor. Thus, we find you have failed to demonstrate the information at issue evaluates the performance of a teacher or administrator for the purposes of section 21.355. Therefore, the district may not withhold any portion of the submitted information under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code. As you raise no further exceptions, the submitted 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,



Matthew Taylor
Assistant Attorney General
Open Records Division

MHT/sdk

Ref: ID# 648115

Enc. Submitted documents

c: Requestor
(w/o enclosures)