



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 16, 2017

Ms. Christine Badillo  
Counsel for Pflugerville Independent School District  
Walsh, Gallegos, Trevino, Russo & Kyle, P.C.  
P.O. Box 2156  
Austin, Texas 78768

OR2017-05450

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# 649523.

The Pflugerville Independent School District (the "district"), which you represent, received a request for all written correspondence between specified individuals and a specified employment contract. You state you have released some information. 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. Section 552.101 encompasses section 21.355 of the Education Code, which 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 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 an teacher’s 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. Further, in Open Records Decision No. 643, we determined an “administrator” for purposes of section 21.355 means a person who is required to, and does in fact, hold an administrator’s certificate under subchapter B of chapter 21 of the Education Code, and is performing the functions as an administrator, as that term is commonly defined, at the time of the evaluation. *Id.*

The district contends the submitted information consists of a confidential evaluation of an administrator by the district. However, the district does not inform us the administrator at issue held an administrator’s certificate or permit under chapter 21 of the Education Code at the time of the evaluations. *See* ORD 643 at 4. Accordingly, we must rule conditionally. To the extent the administrator at issue held an administrator’s certificate or permit under chapter 21 of the Education Code, 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. To the extent the administrator at issue did not hold an administrator’s certificate or permit under chapter 21 of the Education Code, the submitted information is not confidential under section 21.355 of the Education Code and may not be withheld on that basis under section 552.101, but must, instead, 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](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,



Kelly McWethy  
Assistant Attorney General  
Open Records Division

KSM/sb

Ref: ID# 649523

Enc. Submitted documents

c: Requestor  
(w/o enclosures)