



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 6, 2017

Mr. Stephen Trautmann, Jr.  
Counsel for the United Independent School District  
J. Cruz & Associates, LLC  
216 West Village Boulevard, Suite 202  
Laredo, Texas 78041

OR2017-15062

Dear Mr. Trautmann:

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# 664972.

The United Independent School District (the "district"), which you represent, received a request for information related to a specified incident involving the requestor's son and a named district employee and information regarding the process for installing surveillance cameras in specified units in the district. 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.

Initially, we note you have not submitted information responsive to the portion of the request for information seeking information regarding the process for installing surveillance cameras in specified units in the district. To the extent any information responsive to this portion of the request existed on the date the district received the request, we assume the district has released it. If the district has not released any such information, it must do so at this time. *See Gov't Code §§ 552.301(a), .302; see also Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).*

Section 552.101 of the Government Code excepts “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. Section 552.101 encompasses other statutes, such as 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). 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 id.* at 4. Additionally, a court has concluded that 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 (Tex. App.—Austin 2006, no pet.). In Open Records Decision No. 643, we concluded that a “teacher” for purposes of section 21.355 means a person who (1) is required to and does in fact hold a certificate or permit required under chapter 21 of the Education Code and (2) is teaching at the time of his or her evaluation. *See* ORD 643.

You assert the submitted information consists of written evaluations that are confidential under section 21.355. We understand the employee at issue was a teacher engaged in the process of teaching at the time of the evaluations. However, the district does not inform us the employee at issue held a teaching certificate or permit under chapter 21 of the Education Code at the time the documents at issue were created. *See* ORD 643 at 4. Accordingly, we must rule conditionally. To the extent the employee at issue held a teaching 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 employee at issue did not hold a teaching 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 of the Government Code. In that instance, 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](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,

A handwritten signature in black ink, appearing to read 'Ian Lancaster', written in a cursive style.

Ian Lancaster  
Assistant Attorney General  
Open Records Division

IML/tdw

Ref: ID# 664972

Enc. Submitted documents

c: Requestor  
(w/o enclosures)