



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 7, 2019

Ms. Leticia D. McGowan
Assistant General Counsel
Dallas Independent School District
9400 North Central Expressway, Room 1675
Dallas, Texas 75231

OR2019-00355

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# 744830 (ORR# 17709).

The Dallas Independent School District (the "district") received a request for information related to awards for the Teacher Excellence Initiative during a specified time period, including information related to teachers who were reviewed and who received awards. The district claims some of the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception the district claims and reviewed the submitted representative sample of information.²

¹We note the district did not comply with section 552.301 of the Government Code in requesting a ruling from this office. *See* Gov't Code § 552.301(b), (e). Nonetheless, because the exception the district claims can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

²We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

Initially, the district states it sought clarification of a portion of the request for information. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information). The district states it has not received a response to its request for clarification. Accordingly, the district has no obligation at this time to release any information that might be responsive to this portion of the request. However, if the district receives clarification and wishes to withhold any of the information encompassed by the clarified request, the district must request another decision from this office at that time. *See id.* §§ 552.301, .302; *see also City of Dallas v. Abbott*, 304 S.W.3d 380 (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). As the district has submitted documents for our review, we will consider the district's claimed exception to disclosure.

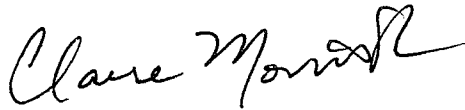
Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes. Section 21.355 of the Education Code provides, 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). 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. Upon review, we agree the information the district marked consists of information created by the district that evaluates district teachers. The district informs us the teachers at issue were certified as teacher by the State Board of Educator Certification and were acting as teachers at the time the evaluations were prepared. Accordingly, the district must withhold the information it marked under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code. The district must release the remaining information.

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,

A handwritten signature in black ink, appearing to read "Claire Morris Sloan". The signature is fluid and cursive, with a large initial "C" and "M".

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/gw

Ref: ID# 744830

Enc. Submitted documents

c: Requestor
(w/o enclosures)