



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 19, 2019

Dr. Sarah S. Flournoy
Chief Legal Counsel
Irving Independent School District
P.O. Box 152637
Irving, Texas 75015-2637

OR2019-07622

Dear Dr. Flournoy:

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# 755232 (IISD File No. I000599-110618).

The Irving Independent School District (the "district") received a request for complaints and performance reviews pertaining to two named employees.¹ The district informs us it will release some information to the requestor. The district claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception the district claims 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. 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

¹The district states, and provides documentation showing, it sought and received clarifications of the information requested. See Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify 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 information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

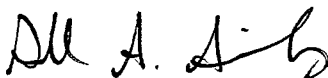
term is commonly understood, the performance of a teacher or administrator. *See* Open Records Decision No. 643 (1996). In Open Records Decision No. 643, we determined an “administrator” for purposes of section 21.355 means a person who is required to, and does in fact, hold an administrator’s certificate 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. *See id.* at 4. We note section 21.355 does not apply to evaluations of counselors. *See id.* at 5 (concluding teacher interns, trainees, educational aides, and counselors are not “teachers” for the purposes of section 21.355).

The district contends the submitted information consists of evaluations of an administrator that are confidential under section 21.355. The district states, and provides documentation showing, the employee at issue held the appropriate certificate at the time of the creation of the evaluations and was functioning as an administrator at the time of the evaluations. Based on the district’s representations and our review, we conclude the district must withhold the submitted administrator evaluations, which we have marked, under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code. However, we note the remaining evaluations pertain to the employee’s performance as a counselor. Thus, we find the district has not shown any of the counselor evaluations evaluate the performance of an administrator for the purposes of section 21.355. Therefore, the district may not withhold these evaluations under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code, and the district must release them.

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,



Gerald A. Arismendez
Assistant Attorney General
Open Records Division

GAA/mo

Ref: ID# 755232

Enc. Submitted documents

c: Requestor
(w/o enclosures)