



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 14, 2019

Ms. Ylise Janssen
General Counsel
Austin Independent School District
1111 West Sixth Street
Austin, Texas 78703

OR2019-12914

Dear Ms. Janssen:

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# 765363.

The Austin Independent School District (the "district") received a request for certain information pertaining to a named district principal. You indicate the district is withholding some information pursuant to the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g.¹ 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. 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 and is not subject to disclosure

¹The United States Department of Education Family Policy Compliance Office (the "DOE") has informed this office FERPA does not permit state and local educational authorities to disclose to this office, without parental consent, unredacted, personally identifiable information contained in education records for the purpose of our review in the open records ruling process under the Act. The DOE has determined FERPA determinations must be made by the educational authority in possession of the education records. We have posted a copy of the letter from the DOE to this office on the Attorney General's website: <https://www.texasattorneygeneral.gov/sites/default/files/files/divisions/open-government/20060725-USDOE-FERPA.pdf>.

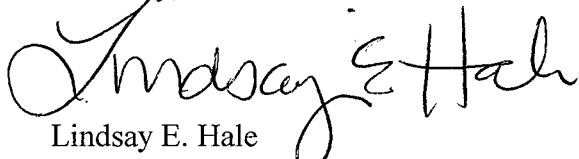
under [the Act].” Educ. Code § 21.355(a). The Third Court of Appeals has concluded a written reprimand constitutes an evaluation for purposes of section 21.355 because “it reflects the principal’s judgment regarding [a teacher’s] actions, gives corrective direction, and provides for further review.” *Abbott v. North East Indep. Sch. Dist.*, 212 S.W.3d 364 (Tex. App.—Austin 2006, no pet.). 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 “administrator” means a person who is required to and does in fact hold a 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.

Upon review, we agree some of the submitted information consists of an evaluation of an administrator by the district. You state, and submit supporting documentation demonstrating, the administrator at issue held the appropriate certificate for the purpose of section 21.355 and was acting as an administrator at the time the evaluation was prepared. Accordingly, the district must withhold the information we have marked under section 552.101 in conjunction with section 21.355. However, we find the remaining information does not consist of a document evaluating the performance of an administrator for the purposes of section 21.355. Thus, the district may not withhold the remaining information under section 552.101 on that basis. As no further exceptions to disclosure have been raised, 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,



Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/mo

Ref: ID# 765363

Enc. Submitted documents

c: Requestor
(w/o enclosures)