



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 20, 2019

Mr. Ricardo R. Lopez
Counsel for the North East Independent School District
Schulman, Lopez, Hoffer & Adelstein, L.L.P.
845 Proton Road
San Antonio, Texas 78258

OR2019-16764

Dear Mr. Lopez:

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# 779077.

The North East Independent School District (the "district"), which you represent, received a request for information related to a named district employee. You state the district will release 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(a) of the Education Code, which provides "[a] document evaluating the performance of a teacher or administrator is confidential and is not subject to disclosure 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

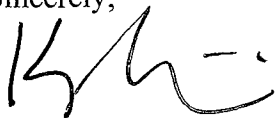
of section 21.355, the word “teacher” means a person who is required to and does in fact hold a teaching certificate under subchapter B of chapter 21 of the Education Code and who is in the process of teaching, as that term is commonly defined, at the time of the evaluation. *See id.* at 4. We note section 21.355 does not apply to evaluations relating to an individual’s duties as a coach. *See* Educ. Code § 21.353 (teachers shall be appraised only on basis of classroom teaching performance and not in connection with extracurricular activities).

Although you contend the submitted information consists of a confidential evaluation of a teacher, we note it pertains to the evaluation of the named employee in his capacity as a coach. Therefore, we find you have failed to demonstrate the information at issue evaluates the performance of a teacher or administrator for purposes of section 21.355. Consequently, the district may not withhold any of the information at issue under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code. Therefore, the district must release the submitted 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,



Kieran Hillis
Assistant Attorney General
Open Records Division

KH/eb

Ref: ID# 779077

Enc. Submitted documents

c: Requestor
(w/o enclosures)