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ATTORNEY GENERAL OF TEXAS

November 19, 2019

Mr. David Lozano
Counsel for Sharyland Independent School District
Jones, Galligan, Key & Lozano, L.L.P.
P.O. Drawer 1247
Weslaco, Texas 78599-1247

OR2019-32710

Dear Mr. Lozano:

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# 797668.

The Sharyland Independent School District (the "district"), which you represent, received three requests from the same requestor for personnel records for four district employees and e-mails pertaining two named employees. You state you have released 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 information protected by other statutes, such as section 21.355 of the Education Code, which provides, in part:

- (a) A document evaluating the performance of a teacher or administrator is confidential and is not subject to disclosure under [the Act].
- (b) Subsection (a) applies to a teacher or administrator employed by an open-enrollment charter school regardless of whether the teacher or administrator is certified under Subchapter B.

Educ. Code § 21.355(a), (b). 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). You argue the submitted information consists of evaluations of district employees in their performance as teachers and administrators. Upon review, we find some of the information at issue consists of evaluations of teachers and administrators for purposes of section 21.355. Therefore, with the exception of the information we marked for release, 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. Upon review, however, we find the information we marked for release does not evaluate the performance of a teacher or administrator for purposes of section 21.355. Thus, the district may not withhold any of the remaining information at issue 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



D. Michelle Case
Assistant Attorney General
Open Records Division

DMC/rm

Ref: ID# 797668

Enc. Submitted documents

c: Requestor
(w/o enclosures)