



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 17, 2019

Mr. W. Clayton Cain
Counsel for the Victoria Independent School District
101 W Goodwin, Suite 1116
Victoria, Texas 77901

OR2019-35636

Dear Mr. Cain:

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# 802510.

The Victoria Independent School District (the "district"), which you represent, received a request for information pertaining to a named former employee.¹ You state you have released some information. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.² 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 section 21.355 of the Education Code, which provides "[a] document evaluating the performance of a teacher or administrator is confidential[.]" Educ. Code § 21.355(a). Additionally, the Third Court of Appeals has concluded a written reprimand constitutes an evaluation for purposes of section 21.355 as it "reflects the principal's judgment regarding [a teacher's] actions, gives corrective direction, and provides for further review." *Abbott v. N. E. Indep. Sch. Dist.*, 212 S.W.3d 364 (Tex. App.—Austin 2006, no pet.). This office has interpreted section 21.355 to apply

¹ As the district has not submitted a copy of the request for information, we take our description from its brief.

² We 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.

to any document that evaluates, as that term is commonly understood, the performance of a teacher or an administrator. *See* Open Records Decision No. 643 (1996). This office has determined the term “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 of an administrator, as that term is commonly defined, at the time of the evaluation. *See* ORD 643.

You contend the submitted information contains evaluations of a district employee that are confidential under section 21.355 of the Education Code. We understand the individual 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 your representations and our review, we find the information at issue consists of evaluations of the performance of an administrator pursuant to section 21.355. Accordingly, 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.

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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/mo

Ref: ID# 802510

Enc. Submitted documents

c: Requestor
(w/o enclosures)