



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 23, 2022

Ms. Erika Orr
Public Information Lead
Dallas Independent School District
9400 North Central Expressway
Dallas, Texas 75231

OR2022-08378

Dear Ms. Orr:

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# 938380 (ORR# R021245).

The Dallas Independent School District (the "district") received a request for a specified grievance resolution agreement. The district claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. This section encompasses section 21.355 of the Education Code, which provides, in relevant part, "[a] document evaluating the performance of a teacher or administrator is confidential[.]" 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).

The district contends the submitted information consist of confidential evaluations of a teacher by the district. The district states, and provides documentation showing, the teacher at issue was certified as a teacher by the State Board of Educator Certification at the time the information at issue was created. The district asserts the information at issue pertains to evaluations of the employee's performance as a teacher. Upon review, we find some of the information at issue, which we have marked, consists of evaluations of a teacher by the district. Thus, the district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code. However, we find the district has not established any of the remaining information consists of "[a] document evaluating the performance of a teacher or administrator" as contemplated by section 21.355. Accordingly, we conclude the district has not established the remaining information is confidential under section 21.355 and may not withhold it under section 552.101 on that ground. Therefore, 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,

James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/be

Ref: ID# 938380

Enc. Submitted documents

c: Requestor
(w/o enclosures)