



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 16, 2022

Ms. Kelli H. Karczewski  
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Karczewski Bradshaw, L.L.P.  
315 North Church Street  
Nacogdoches, Texas 75961

OR2022-13943

Dear Ms. Karczewski:

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# 945938 (PIC ID: Ferguson Request 3.2).

The Longview Independent School District (the "district"), which you represent, received a request for contracts, evaluations, and complaints pertaining to specified employees, as well as communications pertaining to the reassignment of the specified employees.<sup>1</sup> You indicate the district does not have information pertaining to portions of the request.<sup>2</sup> You also indicate the district has released some of the requested 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. We have also received and considered comments from the Longview Police Department and the Texas Department of Family and Protective Services.

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<sup>1</sup> We note the district received clarification regarding this request. See Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information); *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

<sup>2</sup> We note the Act does not require a governmental body to disclose information that did not exist at the time the governmental body received the request for information. *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

*See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 552.101. Section 552.101 of the Government Code encompasses information protected by other statutes, such as section 21.355 of the Education Code. Section 21.355 provides, in relevant part, “[a] document evaluating the performance of a teacher or administrator is confidential under [the Act].” Educ. Code § 21.355(a). 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 an “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 as an administrator, as that term is commonly defined, at the time of the evaluation. *Id.*

You state the submitted information consists of confidential evaluations of administrators by the district. You state, and provide documentation demonstrating, the administrators at issue were certified as administrators by the State Board of Educator Certification and were acting as administrators at the time the evaluations were prepared. Based on your representations and our review, we find 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.<sup>3</sup>

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,

Jennifer Copeland  
Assistant Attorney General  
Open Records Division

JC/jm

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<sup>3</sup> As our ruling on this information is dispositive, we need not address the remaining arguments against disclosure.

Ref: ID# 945938

Enc. Submitted documents

c: Requestor  
(w/o enclosures)