



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 28, 2013

Ms. Laura Cade
Director of Public Relations
Clint Independent School District
14521 Horizon Boulevard
El Paso, Texas 79928

OR2013-15044

Dear Ms. Cade:

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# 497886.

The Clint Independent School District (the "district") received a request for the employment record and evaluations of a named individual. You state the district has released the requested employment record. 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. This section encompasses information protected by other statutes, such as section 21.355 of the Education Code, which provides that "[a] document evaluating the performance of a teacher or administrator is confidential." Educ. Code § 21.355. In Open Records Letter No. 643 (1996), this office interpreted section 21.355 to apply to any document that evaluates, as that term is commonly understood, the performance of a teacher or administrator. ORD 643. We have determined that for purposes of section 21.355, the word "teacher" means a person who (1) is required to, and does in fact, hold a teaching certificate under subchapter B of chapter 21 of the Education Code and (2) who is engaged in the process of teaching, as that term is commonly defined, at the time of the evaluation. *Id.* at 4. We have determined the word "administrator" for purposes of section 21.355 means a person who (1) is required to, and does in fact, hold an administrator's certificate under subchapter B of chapter 21 of the Education Code, and (2) is performing the functions of an

administrator, as that term is commonly defined, at the time of the evaluation. *Id.* In addition, the Third Court of Appeals has held 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.).

You state Exhibit B constitutes evaluations of a district administrator. You state at the time of the evaluations the employee at issue was certified as an administrator and was performing the functions of an administrator. Upon review, we find the information we have marked is confidential under section 21.355 of the Education Code and must be withheld under section 552.101 of the Government Code. However, we find the remaining information does not constitute evaluations of the employee’s performance as an administrator for the purposes of section 21.355. Thus, the district may not withhold the remaining information under section 552.101 in conjunction with section 21.355. As you raise no further exceptions to disclosure, the remaining information must be released to the requestor.

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,



Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/ac

Ref: ID# 497886

Enc. Submitted documents

c: Requestor
(w/o enclosures)