



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 23, 2014

Mr. David P. Backus
Counsel for the Midland Independent School District
Underwood Law Firm P.C.
P.O. box 16197
Lubbock, Texas 79490

OR2014-06611

Dear Mr. Backus:

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# 520405.

The Midland Independent School District (the "district"), which you represent, received a request for written or digital copies of any district internal disciplinary report, findings, investigation and/or punishment for a named individual, during the named individual's tenure with the district. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.102 of the Government Code. We have considered the exceptions 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. Section 21.355 of the Education Code 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

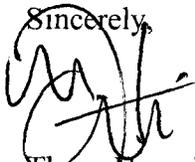
Decision No. 643 (1996). In Open Records Decision No. 643, we determined an “administrator” for purposes of section 21.355 means a person who is required to, and does in fact, hold an administrator’s certificate under subchapter B of chapter 21 of the Education Code, and is performing the functions as an administrator, as that term is commonly defined, at the time of the evaluation. *Id at 4.*

You state Exhibit B consists of an evaluation of the named employee by the district. You inform us, and have provided documentation demonstrating, the employee at issue was certified as an administrator by the State Board of Educator Certification and was acting as an administrator at the time the evaluation was prepared. Upon review, we find Exhibit B consists of an evaluation of an administrator by the district for purposes of section 21.355. Therefore, the district must withhold Exhibit B under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code. As our ruling is dispositive, we need not address your remaining argument against disclosure.

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,



Thana Hussaini
Assistant Attorney General
Open Records Division

TH/som

Ref: ID# 520405

Enc. Submitted documents

c: Requestor
(w/o enclosures)