



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 29, 2014

Ms. Ann Manning  
Attorney for the Lubbock Independent School District  
Underwood Law Firm, P.C.  
P.O. Box 16197  
Lubbock, Texas 79490-6197

OR2014-23435

Dear Ms. Manning:

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# 548024.

The Lubbock Independent School District (the "district"), which you represent, received a request for several categories of information, including information pertaining to the district's school board's evaluation of the district's superintendent (the "superintendent"). You state you have released some information to the requestor. 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.

You state the district sought clarification of the present request for information. *See* Gov't Code § 552.222 (providing if request for information is unclear or over-broad, governmental body may ask requestor to clarify or narrow request); *see also* *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). You further state the district has not received a reply from the requestor. We note a governmental body has a duty to make a good-faith effort to relate a request for information to information the governmental body holds. Open Records Decision No. 561 (1990). In this instance, because you have submitted information responsive to the request and have made an argument against disclosure of this information, we assume the district has made a good-faith effort to relate this request to information the district holds, and we will address the applicability of your argument to the submitted information. We further determine the district has no obligation at this time to release any additional responsive information for which the district has not received clarification. However, if the requestor responds to the request for clarification, the district must seek a

ruling from this office before withholding any additional responsive information from the requestor. *See City of Dallas*, 304 S.W.3d at 387.

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. Section 552.101 encompasses 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(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 an administrator. *See Open Records Decision No. 643* (1996). This office has concluded 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 of an administrator, as that term is commonly defined, at the time of the evaluation. *See id.*

You state the submitted information was created by the district’s board of trustees in its annual evaluation of the superintendent’s performance. You inform us the superintendent held an administrator’s certificate and was acting as an administrator at the time of the evaluations. Based on your representations and our review, we agree the submitted information constitutes evaluations as contemplated by 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 [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](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,



Alley Latham  
Assistant Attorney General  
Open Records Division

AKL/dls

Ref: ID# 548024

Enc. Submitted documents

c: Requestor  
(w/o enclosures)