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ATTORNEY GENERAL OF TEXAS

April 15, 2015

Ms. Andrea Slater Gulley
Counsel for the Hereford Independent School District
Underwood Law Firm, P.C.
P.O. Box 9158
Amarillo, Texas 79105-9158

OR2015-07274

Dear Ms. Gulley:

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# 560193.

The Hereford Independent School District (the "district"), which you represent, received a request for several categories of information related to the district's efforts at serving student needs, the district's planning process, and evaluations of the district and its school board. You state 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.

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 for purposes of section 21.355, the word "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 contend the submitted information consists of a confidential evaluation of a district administrator by the district. You inform us the administrator at issue was certified as an administrator by the State Board of Educator Certification and was acting as an administrator at the time the evaluations were prepared. Upon review, however, we note the submitted information consists of a scoring rubric and does not consist of an evaluation of the district administrator at issue. Thus, we find you have not demonstrated how the submitted information evaluates any employee for purposes of section 21.355. Therefore, we find you have failed to demonstrate how the submitted information consists of documents evaluating the performance of an administrator for purposes of section 21.355 of the Education Code. Accordingly, none of the submitted information may be withheld under section 552.101 of the Government Code on that basis. As you raise no further exceptions to disclosure, the district must release the submitted 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 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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 560193

Enc. Submitted documents

c: Requestor
(w/o enclosures)