



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 3, 2015

Ms. Holly A. Sherman  
Counsel for KIPP Houston Public Schools  
Rogers, Morris & Grover, LLP  
5718 Westheimer Road, Suite 1200  
Houston, Texas 77057

OR2015-10910

Dear Ms. Sherman:

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# 568134.

KIPP Houston Public Schools ("KIPP"), which you represent, received a request from an investigator with the Texas Education Agency (the "TEA") for information pertaining to a named former employee. You state KIPP has 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 representative sample of information.<sup>1</sup>

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 section 21.355 of the Education Code, which provides, in relevant part:

- (a) A document evaluating the performance of a teacher or administrator is confidential.

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<sup>1</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

(b) Subsection (a) applies to a teacher or administrator employed by an open-enrollment charter school regardless of whether the teacher or administrator is certified under Subchapter B.

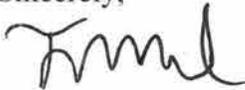
Educ. Code § 21.355(a), (b). This office has interpreted section 21.355 to apply to any document that evaluates, as that term is commonly understood, the performance of a teacher or administrator. *See* Open Records Decision No. 643 (1996). In that opinion, this office also concluded that a teacher is someone who is required to hold and does hold a certificate or permit required under chapter 21 of the Education Code and is teaching at the time of his or her evaluation. *Id.* Additionally, 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.).

You state the information at issue consists of evaluations of a former teacher at KIPP, which we understand is a Texas open-enrollment charter school. However, we find the submitted information consists of a written communication terminating the employee after allegations and an investigation of misconduct. We find the submitted information does not consist of a teacher evaluation for the purposes of section 21.355 of the Education Code. Accordingly, KIPP may not withhold any of the information at issue under section 552.101 of the Government Code on the basis of section 21.355. As you raise no further exceptions to disclosure, KIPP must release the information at issue.

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,



Tim Neal  
Assistant Attorney General  
Open Records Division

TN/bhf

Ref: ID# 568134

Enc. Submitted documents

c: Requestor  
(w/o enclosures)