



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 3, 2015

Mr. Darin Darby
Counsel for the San Antonio Independent School District
Escamilla & Poneck, L.L.P.
700 North St. Mary's Street, Suite 850
San Antonio, Texas 78205

OR2015-15850

Dear Mr. Darby:

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# 573789.

The San Antonio Independent School District (the "district"), which you represent, received a request for the name, campus, and position of all teachers hired after a specified date who were recommended for termination or non-renewal for a specified school year. 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.

Initially, you state the district does not maintain a "list" of the requested information. We note the request does not seek a list of information, but rather seeks several specified categories of information pertaining to specified individuals. We further note a governmental body must make a good-faith effort to relate a request to information held by the governmental body. *See* Open Records Decision No. 561 at 8 (1990). In this instance, we find because the district submitted information as responsive to the request, we assume the district has made a good-faith effort to relate the request to information it holds. We will therefore address your claimed exception against disclosure of 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 “teacher” means a person who is required to and does in fact hold a teaching certificate under subchapter B of chapter 21 of the Education Code and who is in the process of teaching, as that term is commonly defined, at the time of the evaluation. *See id.* at 4.

You argue the submitted information consists of confidential evaluations of district teachers by the district. You inform us the teachers at issue were certified as teachers, and were acting as teachers, at the time the evaluations were prepared. Upon review, we find some of the submitted information consists of self-evaluations completed by the individuals at issue and a notice of administrative leave that do not evaluate any employee for purposes of section 21.355. This information, which we have marked for release, does not consist of documents evaluating the performance of a teacher or for purposes of section 21.355 of the Education Code and may not be withheld under section 552.101 of the Government Code on that basis. Accordingly, except for the information we marked for release, 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. The district must release the remaining 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# 573789

Enc. Submitted documents

c: Requestor
(w/o enclosures)