



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 12, 2015

Mr. Miguel Salinas
Staff Attorney
Brownsville Independent School District
1900 Price Road
Brownsville, Texas 78521

OR2015-16676

Dear Mr. Salinas:

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# 575203 (Brownsville ISD No. 7879).

The Brownsville Independent School District (the "district") received a request for multiple categories of information pertaining to the requestor's client, the district's organization chart, specified policies, specified evaluations, e-mails sent to the district's board of trustees during a specified month referencing district reassignments, information pertaining to donations for a specified time period, a specified video recording, and a specified letter. 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. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (permitting interested third party to submit to attorney general reasons why requested information should or should not be released).

Initially, we note you have only submitted evaluations. To the extent any information responsive to the remaining portions of the request existed on the date the district received the request, we assume the district has released it. If the district has not released any such information, it must do so at this time. *See id.* §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

Section 552.101 of the Government Code exempts 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 that “[a] document evaluating the performance of a teacher or administrator is confidential.” Educ. Code § 21.355. In addition, the court 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 this section to apply to any document that evaluates, as that term is commonly understood, the performance of a teacher or administrator. Open Records Decision No. 643 (1996). In that opinion, we 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.* We also have determined that for purposes of section 21.355, “administrator” 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. *Id.*

You claim the submitted information constitutes evaluations of administrators that are confidential under section 21.355 of the Education Code. You state the individuals at issue were acting as administrators when the evaluative documents were created. Upon review, we find the information we marked constitutes evaluations of administrators. Therefore, if the administrators held the appropriate certificates at the time of the evaluations at issue, the district must withhold the information we marked under section 21.355 of the Education Code in conjunction with section 552.101. If the administrators did not hold the appropriate certificates at the time of the evaluations at issue, the information we marked may not be withheld under section 552.101 on that basis. We note the remaining evaluations are for district employees who were not required to hold administrator certificates. Section 21.355 protects evaluations of administrators who are required to and do in fact hold an administrator’s certificate. *See id.* Therefore, we find you have failed to demonstrate how any of the remaining information constitutes an evaluation of the performance of an administrator for the purposes of section 21.355 of the Education Code. Therefore, the district may not withhold any of the remaining information under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code. As you raise no other exceptions to disclosure, the remaining information must be released.

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,

A handwritten signature in black ink that reads "Paige Thompson". The signature is written in a cursive, flowing style.

Paige Thompson
Assistant Attorney General
Open Records Division

PT/dls

Ref: ID# 575203

Enc. Submitted documents

c: Requestor
(w/o enclosures)