



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 26, 2016

Mr. Hector Benavides
Counsel for the Judson Independent School District
Walsh Gallegos Treviño Russo & Kyle P.C.
P.O. Box 460606
San Antonio, Texas 78246

OR2016-09323

Dear Mr. Benavides:

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# 607899.

The Judson Independent School District (the "district"), which you represent, received a request for information pertaining to specified teachers during a specified time period. 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 you will redact employee identification numbers pursuant to Open Records Decision No. 684 (2009). We note a governmental body may not withhold information from the public without asking this office for a decision under section 552.301 of the Government Code unless a provision of the Act or a previous determination specifically authorizes the governmental body to do so. *See* Gov't Code § 552.301(a); *see also*, e.g., *id.* §§ 552.024(c), .147; Open Records Decision No. 673 (2001) (previous determinations). Open Records Decision No. 684 serves as a previous determination to all governmental bodies authorizing them to withhold certain categories of information without the necessity of requesting an attorney general decision. However, we note Open Records Decision No. 684 does not authorize a governmental body to redact employee identification numbers. Further, we are unaware of any statutory or other authority that would permit the district to withhold the employee identification numbers at issue without asking this office for a decision. Therefore,

the district may not redact the employee identification numbers at issue without asking this office for a ruling under section 552.301 of the Government Code.

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.

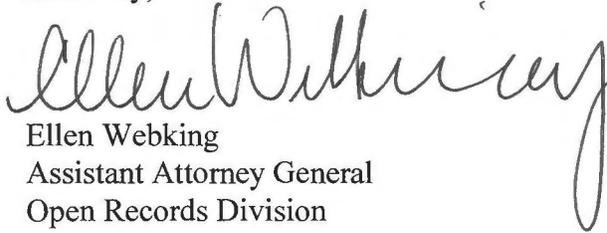
You argue the submitted information consists of confidential evaluations of the specified teachers by the district. You inform us, and have provided documentation demonstrating, the employees at issue were certified as teachers by the State Board of Educator Certification and were acting as teachers at the time the evaluations were prepared. Upon review, we find some of the submitted information consists of evaluations of teachers by the district for purposes of section 21.355. Accordingly, the district must withhold the information we marked under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code. However, the remaining information at issue consists of waivers of evaluations. Thus, we find you have failed to demonstrate any of the remaining information at issue consists of documents evaluating the performance of a teacher for purposes of section 21.355 of the Education Code. Accordingly, none of the remaining 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 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,

A handwritten signature in cursive script that reads "Ellen Webking". The signature is written in black ink and is positioned above the typed name and title.

Ellen Webking
Assistant Attorney General
Open Records Division

EW/bw

Ref: ID# 607899

Enc. Submitted documents

c: Requestor
(w/o enclosures)