



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 2, 2016

Ms. Cynthia L. Benavides
Counsel for Weslaco Independent School District
Jones, Galligan, Key & Lozano, L.L.P.
P.O. Box 1247
Weslaco, Texas 78599-1247

OR2016-19877

Dear Ms. 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# 625069.

The Weslaco Independent School District (the "district"), which you represent, received a request for any and all evaluations in the personnel file of a named individual. 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. 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 Open Records Letter No. 643, this office interpreted section 21.355 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 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 determined an administrator is a person who is required to and does hold an administrator's certificate under chapter 21 of the Education Code and is performing as an administrator at the time of the evaluation. *Id.* In addition, the

Third Court of Appeals has held 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 in Exhibit B consists of evaluations of an administrator by the district. You inform us this individual held the appropriate certification under subchapter B of the Education Code at the time of the evaluations and was engaged as a teacher or administrator at the time of the evaluations. Upon review, we find the information in Exhibit B consists of documents that evaluate the performance of a teacher or administrator for the purposes of section 21.355. Accordingly, the district must withhold the information at issue under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code.

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,



Kelly McWethy
Assistant Attorney General
Open Records Division

KSM/dls

Ref: ID# 625069

Enc. Submitted documents

c: Requestor
(w/o enclosures)