



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 31, 1996

Mr. John S. Aldridge
Walsh, Anderson, Underwood,
Schulze & Aldridge, P.C.
P.O. Box 2156
Austin, Texas 78768

OR96-0846

Dear Mr. Aldridge:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 100015 (previously ID# 35133).

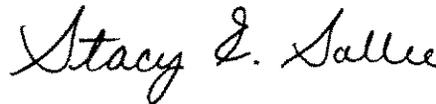
The Mercedes Independent School District (the "school district"), which you represent, received a request for "terms of the settlement, including back pay, for teacher Luis Carlos Betancourt, who was reinstated August 1 after being cleared of charges he molested four girls." You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claimed and have reviewed the documents at issue.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. In the last legislative session, Senate Bill 1 was passed, which added section 21.355 to the Education Code. Section 21.355 provides, "Any document evaluating the performance of a teacher or administrator is confidential." This office recently 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). We enclose a copy of Open Records Decision No. 643 (1996) for your information. In Open Records Decision No. 643 (1996), this office defined "evaluate" as its common meaning: to determine or fix the value of, to determine the significance, worth, or condition of usually by careful appraisal and study. *Id.* at 3.

Here, the documents submitted to this office for review are not evaluations of a teacher's past performance but rather directives for future performance. These documents only set guidelines for the teacher to follow in the future. We therefore conclude that section 21.355 of the Education Code does not apply to the requested documents. Consequently, the school district may not withhold the requested documents from disclosure.¹

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee
Assistant Attorney General
Open Records Division

SES/ch

Ref.: ID# 100015 (previously ID# 35133)

Enclosures: Open Records Decision No. 643 (1996)
Submitted documents

cc: Mr. Bill Hethcock
Valley Morning Star
1310 S. Commerce
Mercedes, Texas 78750
(w/o submitted documents; w/Open Records Decision No. 643 (1996))

¹Moreover, as we have pointed out in previous decisions, final settlement agreements that involve the expenditure of public funds are generally public. *See, e.g.*, Open Records Decision Nos. 269 (1981), 245 (1980), 114 (1975).