



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 30, 2016

Ms. Jeanne C. Collins
General Counsel
El Paso Independent School District
P.O. Box 20100
El Paso, Texas 79998-0100

OR2016-19593

Dear Ms. Collins:

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# 624683 (EPISD ORR #2016.196).

The El Paso Independent School District (the "district") received a request for evaluations of a named employee 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.

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 section 21.355 of the Education Code. Section 21.355(a) provides "[a] document evaluating the performance of a teacher or administrator is confidential." Educ. Code § 21.355(a). Additionally, the Third Court of Appeals has concluded that a written reprimand constitutes an evaluation for purposes of section 21.355 as it "reflects the principal's judgment regarding [a teacher's] actions, gives corrective direction, and provides for further review." *N. E. Indep. Sch. Dist. v. Abbott*, 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. *See* Open Records Decision No. 643 at 3 (1996). We also determined a "teacher" for purposes of section 21.355 means a person who (1) is required to and does in fact hold a teaching certificate under subchapter B of chapter 21 of the Education Code or a school district teaching permit under section 21.055, and (2) is engaged in the process of teaching, as that term is commonly defined, at the time of the evaluation. *See id.*

at 4. We note section 21.355 does not apply to evaluations relating to an individual's duties as a coach. *See* Educ. Code § 21.353 (teachers shall be appraised only on basis of classroom teaching performance and not in connection with extracurricular activities).

You contend the submitted information is confidential because it consists of evaluations of a certified teacher under Chapter 21 of the Education Code. You inform us the individual at issue held the appropriate teacher certification at the time of the evaluations. Upon review, we find some of the information at issue, which we have marked, consists of confidential evaluations under section 21.355 of the Education Code. Accordingly, the district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 21.355. However, the remaining information at issue consists of evaluations of the employee in his capacity as a coach. Accordingly, the district may not withhold the remaining information under section 552.101 in conjunction with section 21.355. 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,



Cole Hutchison
Assistant Attorney General
Open Records Division

CH/bhf

Ref: ID# 624683

Enc. Submitted documents

c: Requestor
(w/o enclosures)