



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 5, 2016

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

OR2016-22376

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# 629603.

The West Oso Independent School District (the "district"), which you represent, received a request for all complaints and grievances filed against a named individual, as well as copies of annual employment evaluations and assessments. 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, we note you have only submitted information pertaining to the requested evaluations and assessments. To the extent information responsive to the remainder of the request existed on the date the district received the request, we assume you have released it. *See* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible). If you have not released any such information, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. Section 552.101 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). 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 an administrator. *See* Open Records Decision No. 643 (1996). In Open Records Decision No. 643, we determined an “administrator” for purposes of section 21.355 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 contend the submitted information constitutes confidential evaluations of the district’s superintendent. You inform us, and provide documentation demonstrating, the superintendent was certified as an administrator and was acting as an administrator at the time of the evaluations. Based on your representations and our review, we conclude the submitted information is confidential under section 21.355 of the Education Code, and the district must withhold it under section 552.101 of the Government 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,



Britni Ramirez
Assistant Attorney General
Open Records Division

BR/eb

Ref: ID# 629603

Enc. Submitted documents

c: Requestor
(w/o enclosures)