



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 12, 2016

Mr. Mike Leasor
Counsel to Kerens Independent School District
Leasor Crass, P.C.
302 West Broad Street
Mansfield, Texas 76063

OR2016-22967

Dear Mr. Leasor:

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# 630102.

The Kerens Independent School District (the "district"), which you represent, received a request for (1) all minutes for the district school board for a specified range of dates, (2) all fiscal year end financials for a specified range of dates, and (3) all employee records for new hires and individuals promoted within a specified range of dates.¹ You state you have released some information. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have also received and considered comments submitted by the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit written comments regarding why information should or should not be released). We have considered the exception you claim and reviewed the submitted information.

¹We note the district sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

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 of the Government Code encompasses section 21.355 of the Education Code. Section 21.355(a) provides that “[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). We have determined that for purposes of section 21.355, “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 or a school district teaching permit under section 21.055 and who is engaged in the process of teaching, as that term is commonly defined, at the time of the evaluation. *See id.* at 4. We also have determined that “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.* 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.” *See North East Indep. Sch. Dist. v. Abbott*, 212 S.W.3d 364 (Tex. App.—Austin 2006, no pet.).

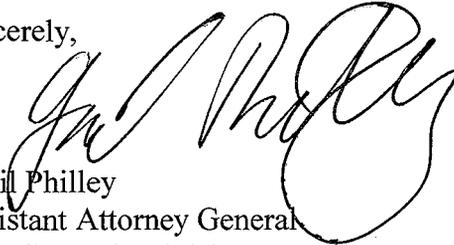
You state the submitted information evaluates the performance of teachers and an administrator employed by the district. Upon review, we find some of the submitted information consists of “[a] document evaluating the performance of a teacher or administrator” as contemplated by section 21.355 of the Education Code. *See* Educ. Code § 21.353 (teachers shall be appraised only on basis of classroom teaching performance and not in connection with extracurricular activities). Therefore, the district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 21.355 of the Education Code. However, you fail to demonstrate any of the remaining information is confidential under section 21.355 of the Education Code and the district may not withhold it under section 552.101 of the Government Code on that basis. Therefore, 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,


April Philley
Assistant Attorney General
Open Records Division

AP/akg

Ref: ID# 630102

Enc. Submitted documents

c: Requestor
(w/o enclosures)