



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 17, 2006

Mr. David A. Anderson
General Counsel
Office of Legal Services
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701-1494

OR2006-02681

Dear Mr. Anderson:

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# 244365.

The Texas Education Agency (the "TEA") received a request for the Recommendations and Determinations Reports submitted by the special campus intervention team (the "SCIT") assigned to two named schools. You claim that the requested information is excepted from disclosure under sections 552.111 and 552.116 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

We note that the submitted information is subject to required public disclosure under section 552.022 of the Government Code, which provides in relevant part:

the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

- (1) a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108[.]

Gov't Code § 552.022(a)(1). The information at issue consists of two completed reports. Therefore, as prescribed by section 552.022, the TEA must release the submitted information unless it is confidential under other law. Sections 552.111 and 552.116 of the Government Code are discretionary exceptions to public disclosure that protect the governmental body's interests and may be waived. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, Open Records Decision Nos. 677 at 10 (attorney work product privilege may be waived), 665 at 2 n.5 (2000) (discretionary exceptions generally). As such, sections 552.111 and 552.116 do not qualify as other law that makes information confidential for the purposes of section 552.022. Thus, the TEA may not withhold the requested reports under either section 552.111 or 552.116 of the Government Code. As you have not raised any other exceptions for this information, it must be released.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

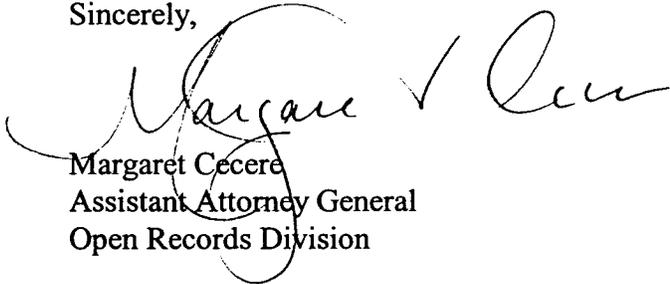
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Margaret Cecere
Assistant Attorney General
Open Records Division

MC/sdk

Ref: ID# 244365

Enc. Submitted documents

c: Mr. David Doerr
Waco Tribune-Herald
P.O. Box 2588
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(w/o enclosures)