



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 13, 2009

Mr. Montgomery Meitler
Assistant Counsel
Office of Legal Services
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701-1494

OR2009-06478

Dear Mr. Meitler:

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# 343138 (TEA PIR# 10851).

The Texas Education Agency (the "agency") received a request for: (1) a specified complaint filed with the agency, including any exhibits or attachments thereto; and (2) any correspondence between the agency and the party or parties who filed the complaint related to the subject matter of the complaint. You claim that the submitted information is excepted from disclosure under section 552.116 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.116 of the Government Code provides:

- (a) An audit working paper of an audit of the state auditor or the auditor of a state agency, an institution of higher education as defined by Section 61.003, Education Code, a county, a municipality, a school district, or a joint board operating under Section 22.074, Transportation Code, including any audit relating to the criminal history background check of a public school employee, is excepted from [required public disclosure under the Act]. If information in an audit working paper is also maintained in

another record, that other record is not excepted from [required public disclosure] by this section.

(b) In this section:

(1) 'Audit' means an audit authorized or required by a statute of this state or the United States, the charter or an ordinance of a municipality, an order of the commissioners court of a county, a resolution or other action of a board of trustees of a school district, including an audit by the district relating to the criminal history background check of a public school employee, or a resolution or other action of a joint board described by Subsection (a) and includes an investigation.

(2) 'Audit working paper' includes all information, documentary or otherwise, prepared or maintained in conducting an audit or preparing an audit report, including:

(A) intra-agency and interagency communications; and

(B) drafts of the audit report or portions of those drafts.

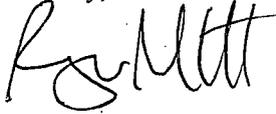
Gov't Code § 552.116. You inform this office that the submitted information consists of working papers of an audit conducted by the agency's Division of Financial Audits in conjunction with a financial audit of a school district. You explain that this audit originated as a complaint submitted to the agency's Office of Inspector General, which was subsequently assigned to the Division of Financial Audits for investigation. You state that audits such as this are authorized by section 39.075(a)(4) of the Education Code. *See* Educ. Code § 39.075(a)(4) (allowing special accreditation investigations to be conducted "in response to established compliance reviews of the district's financial accounting practices and state and federal program requirements"). Based on your representations and our review, we agree that the submitted information consists of audit working papers as defined in section 552.116(b)(2) of the Government Code. Accordingly, the agency may withhold this information pursuant to section 552.116 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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Mitchell". The signature is written in a cursive style with a large initial "R" and "M".

Ryan T. Mitchell
Assistant Attorney General
Open Records Division

RTM/cc

Ref: ID# 343138

Enc. Submitted documents

cc: Requestor
(w/o enclosures)