



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 27, 2009

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

OR2009-10327

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# 350212 (TEA PIR# 11258).

The Texas Education Agency (the "agency") received a request for information related to a specific investigation. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.116, 552.130, and 552.137 of the Government Code. We have considered the exceptions 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 "audit working papers prepared or maintained by [the agency's] Driver Training Division in conducting an investigation of a complaint filed against [a specific driver training school]." You state that audits such as this are authorized by section 1001.053 of the Education Code. *See* Educ. Code § 1001.051 (granting agency jurisdiction over driver training schools regulated under chapter 1001), *id.* § 1001.053(a)(2) (granting state Commissioner of Education authority to enforce standards for driver training schools under chapter 1001). 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 in its entirety under section 552.116.¹

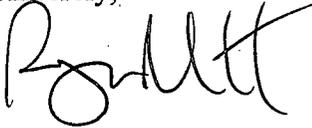
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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,

¹As this ruling is dispositive, we need not address your remaining arguments against disclosure, except to note that you ask for a previous determination with regard to certain information subject to sections 552.130 and 552.137 of the Government Code. As this ruling does not address either of these sections, we decline to issue such a determination at this time.

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 fluid and cursive, with the first letter "R" being particularly large and stylized.

Ryan T. Mitchell
Assistant Attorney General
Open Records Division

RTM/dls

Ref: ID# 350212

Enc. Submitted documents

c: Requestor
(w/o enclosures)