



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 28, 2011

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

OR2011-01519

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# 409440 (TEA PIR #14364).

The Texas Education Agency (the "agency") received a request for complaints, responses to complaints, audits, and investigations regarding three named schools. You state the agency will be releasing some of the requested information. However, you state the agency is redacting information deemed confidential pursuant to the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g,<sup>1</sup> and Texas license plate numbers and an insurance policy number pursuant to the previous determination in Open Records Decision No. 684 (2009).<sup>2</sup> You claim the submitted information is excepted from disclosure under

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<sup>1</sup>The United States Department of Education Family Policy Compliance Office (the "DOE") has informed this office FERPA does not permit state and local educational authorities to disclose to this office, without parental consent, unredacted, personally identifiable information contained in education records for the purpose of our review in the open records ruling process under the Act. The DOE has determined FERPA determinations must be made by the educational authority in possession of the education records. We have posted a copy of the letter from the DOE to this office on the Attorney General's website: <http://www.oag.state.tx.us/open/20060725usdoe.pdf>.

<sup>2</sup>See Open Records Decision No. 684 (2009) (previous determination authorizing any governmental body to withhold ten categories of information, including Texas license plate numbers under section 552.130 of Government Code and insurance policy numbers under section 552.136 of Government Code, without necessity of requesting attorney general opinion).

sections 552.116 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>3</sup>

Section 552.116 of the Government Code provides the following:

(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 the requirements of Section 552.021. If information in an audit working paper is also maintained in another record, that other record is not excepted from the requirements of Section 552.021 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 a portion of the submitted documents consists of "audit working papers prepared or maintained by [the agency's] Division of Financial Audits and Division of Program Monitoring and Interventions in conjunction with audits of [the three named schools]." You inform us these audits are authorized by section 39.057(a)(4) the Education Code, which permits special accreditation investigations to be conducted in response to established compliance reviews of a school district's financial

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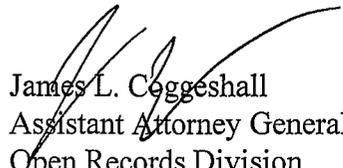
<sup>3</sup>We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

accounting practices and state and federal program requirements. *See* Educ. Code § 39.057 (listing circumstances in which the commissioner shall authorize investigations). Additionally, you state the remaining documents were “prepared or maintained by [the agency’s] Student Assessment Division Security Task Force in conducting investigations of testing irregularities in the administration of statewide assessment instruments.” You inform us the investigations “are authorized by section 39.057(a)(8) of the Education Code, which permits the [c]ommissioner of [e]ducation to authorize special accreditation investigations to be conducted in response to an allegation regarding or an analysis using a statistical method result indicating a possible violation of an assessment instrument security procedure.” *See id.* Based on your representations and our review, we agree the information at issue consists of audit working papers for purposes of section 552.116 of the Government Code. Accordingly, the agency may withhold the entirety of the submitted information under section 552.116 of the Government Code.<sup>4</sup>

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](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, toll free, at (888) 672-6787.

Sincerely,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/tf

Ref: ID# 409440

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>4</sup>As our ruling is dispositive, we do not address your other argument to withhold this information.