



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

May 16, 2011

Mr. W. Montgomery Meitler
Assistant Counsel, Office of Legal Services
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78711-1494

OR2011-06821

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# 417631 (TEA PIR# 14868).

The Texas Education Agency ("TEA") received a request for the database containing information regarding investigations of education employees from January 1, 2007 to December 31, 2010 that are closed and resulted in sanctions.¹ You claim the requested information is excepted from disclosure under sections 552.101, 552.102, and 552.116 of the Government Code and privileged under Texas Rule of Civil Procedure 192.5. We have considered your arguments and reviewed the submitted representative sample of information.²

You assert the requested information is excepted in its entirety under section 552.116. Section 552.116 of the Government Code provides as follows:

¹You state, and provide documentation showing, TEA sought and received clarification of the request. See Gov't Code § 522.222(b) (stating if information requested is unclear or large amount has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); see also *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad 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).

²We 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.

(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]. If information in an audit working paper is also maintained in another record, that other record is not excepted from [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 state the information at issue was extracted from audit working papers prepared or maintained by TEA in the course of investigations of alleged educator misconduct. You state these investigations are authorized by sections 21.031 and 21.041 of the Education Code and section 249.14 of title 19 of the Texas Administrative Code. *See* Educ. Code §§ 21.031(a) (TEA shall regulate and oversee standards of conduct of public school educators), 21.041(b) (TEA shall propose rules providing for disciplinary proceedings); 19 T.A.C. § 249.14(a) (TEA may obtain and investigate information concerning an educator's alleged improper conduct). Based on your representations and our review of the information at issue, we agree section 552.116 is applicable. Therefore, TEA may withhold the information at issue in its entirety under section 552.116 of the Government Code. As our ruling is dispositive, we do not address your remaining arguments against disclosure.

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, toll free at (888) 672-6787.

Sincerely,



Misty Haberer Barham
Assistant Attorney General
Open Records Division

MHB/eeg

Ref: ID # 417631

Enc. Submitted documents

c: Requestor
(w/o enclosures)