



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 7, 2011

Ms. Ylise Janssen  
Senior School Law Attorney  
Austin Independent School District  
1111 West Sixth Street  
Austin, Texas 78703

OR2011-09607

Dear Ms. Janssen:

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# 423019.

The Austin Independent School District (the "district") received a request for information regarding "the use and spending of funds and gift cards generated from the Back to Schools program by the Bryker Woods Elementary administration," including funds and gift cards from Randalls and Target. You state some information has been released to the requestor. You claim the submitted information is excepted from disclosure pursuant to section 552.116 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

We note portions of the submitted information are subject to section 552.022(a)(3) of the Government Code. Section 552.022(a) provides in relevant part:

[T]he following categories of information are public information and not excepted from required disclosure under [the Act] unless they are expressly confidential under other law:

...

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body[.]

Gov't Code § 552.022(a)(3). In this instance, the submitted information contains receipts subject to section 552.022(a)(3). Information subject to section 552.022(a)(3) may only be withheld if it is confidential under other law. *See id.* Although you raise section 552.116 for this information, this section is a discretionary exception to disclosure that protects a governmental body's interests. *See id.* § 552.007; Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions). As such, this section is not "other law" that makes information confidential for purposes of section 552.022(a)(3). Therefore, the district may not withhold the information subject to section 552.022(a)(3), which we have marked, under section 552.116 of the Government Code. As you raise no further exceptions to disclosure of the information subject to section 552.022(a)(3) of the Government Code, it must be released. However, we will consider your argument under section 552.116 for the information not subject to section 552.022.

Section 552.116 of the Government Code provides as follows:

(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, a hospital 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, the bylaws adopted by or other action of the governing board of a hospital district, 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.

Act of May 24, 2011, 82<sup>nd</sup> Leg., R.S., H.B. 2947, §§ 1, 2 (to be codified as amendments to Gov't Code § 552.116). You state the remaining information consists of audit working papers prepared or maintained by the district in conducting an audit of the financial records of Bryker Woods Elementary School. You further state the audit is being conducted by the district's internal auditor pursuant to section 11.170 of the Education Code. *See* Educ. Code § 11.170 (providing that district's board of trustees may select an internal auditor who reports directly to the board). You inform us the district's Internal Audit Department is required by Board of Trustees (the "board") policy CFC (Local) to implement and perform an annual audit and submit the results to the board. Based on your representations and our review, we agree the remaining information consists of audit working papers as defined in section 552.116(b)(2). Accordingly, the district may withhold the remaining information pursuant to section 552.116 of the Government Code.

In summary, the district must release the information we have marked pursuant to section 552.022(a)(3) of the Government Code. The district may withhold the remaining information under 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](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,



Jennifer Burnett  
Assistant Attorney General  
Open Records Division

JB/dls

Ref: ID# 423019

Enc. Submitted documents

c: Requestor  
(w/o enclosures)