



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 14, 2011

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

OR2011-13261

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# 429815 (TEA PIR# 15678).

The Texas Education Agency (the "TEA") received a request for four categories of information pertaining to information referenced in a specified data file. You state the TEA will release information responsive to categories three and four of the request. You claim that the remaining requested information is excepted from disclosure under sections 552.101, 552.103, 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.<sup>1</sup>

Initially, we note the requestor does not object to the redaction of any educators' social security numbers. Therefore, this type of information is not responsive to the present request for information. This ruling does not address the public availability of any information that is not responsive to the request, and the TEA need not release such information.

You state a portion of the information responsive to category one of the request was the subject of a previous request for information, in response to which this office issued Open

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<sup>1</sup>This letter ruling assumes that the submitted representative sample of information is truly representative of the requested information as a whole. This ruling does not reach, and therefore does not authorize, the withholding of any other requested information to the extent that the other information is substantially different than that submitted to this office. See Gov't Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

Records Letter No. 2011-06821 (2011). You state the law, facts, and circumstances on which the prior ruling was based have not changed. Thus, we conclude the TEA may continue to rely on this ruling as a previous determination and withhold the previously ruled upon information in accordance with the prior ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

You assert the information at issue is excepted in its entirety under section 552.116 of the Government Code. Section 552.116 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 [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, 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 29, 2011, 82nd Leg., R.S., H.B. 2947, §§ 1, 2 (to be codified as amendments to Gov't Code § 552.116(a) and (b)(1)). You state the information at issue consists of audit

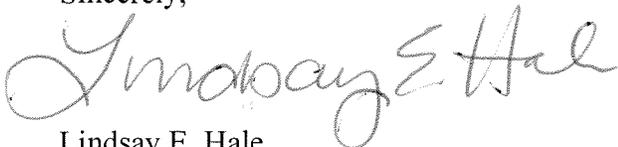
working papers prepared or maintained by the TEA in the course of investigations of alleged educator misconduct. You state these investigations are authorized by sections 21.031 and 21.041 of the Education Code and section 249.14 of title 19 of the Texas Administrative Code. *See* Educ. Code §§ 21.031(a) (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, the TEA may withhold the information at issue under section 552.116 of the Government Code. As our ruling is dispositive, we do not address your remaining arguments against disclosure.

In summary, the TEA may continue to rely on Open Records Letter No. 2011-06821 as a previous determination and withhold the previously ruled upon information in accordance with the prior ruling. The TEA may withhold the information at issue 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,



Lindsay E. Hale  
Assistant Attorney General  
Open Records Division

LEH/bs

Ref: ID# 429815

Enc. Submitted documents

c: Requestor  
(w/o enclosures)