



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 28, 2011

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

OR2011-15858

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# 435028 (PIR #s 15998 and 16048).

The Texas Education Agency (the "agency") received two requests for information relating to complaints against a named charter school district.¹ You state you will release some information to one of the requestors. You state you will withhold a portion of the requested information in reliance upon our prior ruling in Open Records Letter No. 2010-17523 (2010), in which we held the agency may withhold the information at issue under section 552.116 of the Government Code. *See* Open Records Decision No. 673 (2001) (so long as law, facts, 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 prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes information is or is not excepted from disclosure). You claim the submitted information is excepted from disclosure under section 552.116 of the Government

¹You state the agency sought and received clarification from one requestor regarding the request. *See* Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information 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).

Code. We have considered the exception you claim and reviewed the submitted representative sample of information.²

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, 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 [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, 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), (b)(1)); Gov't Code § 552.116(b)(2). You state the submitted information consists of working papers prepared or maintained by the agency's Division of

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.

Financial Audits in conjunction with an audit of the named charter school district. You further state such an audit is authorized by section 39.057(a)(4) of the Education Code, which permits special accreditation investigations to be conducted in response to established compliance reviews of a school district's financial accounting practices and state and federal program requirements. Based on your representations and our review, we agree 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 the submitted information pursuant to 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, 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,



Mack T. Harrison
Assistant Attorney General
Open Records Division

MTH/em

Ref: ID# 435028

Enc. Submitted documents

c: Requestor
(w/o enclosures)