



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 12, 2012

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

OR2012-05277

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# 450446 (TEA PIR# 16947).

The Texas Education Agency (the "agency") received a request for research studies pertaining to the determination of State of Texas Assessments of Academic Readiness standards. You claim the submitted information is excepted from disclosure under sections 552.111 and 552.116 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

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 [required

¹We 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.

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.

Gov’t Code § 552.116(a) and (b)(1); Gov’t Code § 552.116(b)(2). You state the submitted information consists of audit working papers that were prepared or are maintained by the agency’s Student Assessment Division in conducting pending audits of annual statewide assessment instruments regarding the correlation of performance standards between grades or the end-of-course assessment instruments. You inform us that the audit was conducted under the authority granted to the agency by section 39.0242(b) of the Education Code, which requires the Commissioner of Education to evaluate and/or revise the performance standards established under section 39.0241 of the Education Code. *See* Educ. Code § 39.0242(b)-(e); *see also id.* § 39.0241(a) and (a-1). Based on your representations and our review, we agree that section 552.116 is applicable in this instance. Accordingly, the agency may withhold the submitted information pursuant to section 552.116 of the Government Code.²

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.

²As our ruling is dispositive, we need not address your remaining argument against disclosure.

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,

A handwritten signature in cursive script that reads "Sean Opperman".

Sean Opperman
Assistant Attorney General
Open Records Division

SO/em

Ref: ID# 450446

Enc. Submitted documents

c: Requestor
(w/o enclosures)