



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 12, 2012

Mr. S. Anthony Safi
Mounce, Green, Myers, Safi, Paxson & Galatzan, P.C.
P.O. Box 1977
El Paso, Texas 79999-1977

OR2012-20006

Dear Mr. Safi:

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# 474342 (EPISD ORR# 2012.372).

The El Paso Independent School District (the "district"), which you represent, received a request for e-mails from the district's internal auditor to the school board since July 1, 2012.¹ You state the district will release some of the requested information but claim some of the submitted information is excepted from disclosure under sections 552.107, 552.111, and 552.116 of the Government Code.² We have considered the exceptions you claim and reviewed the submitted information, a portion of which is a representative sample.³

¹The district sought and received clarification of the information requested. *See* Gov't Code § 552.222 (if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (if governmental entity, acting in good faith, requests clarification of unclear or over-broad request, ten-day period to request attorney general ruling is measured from date request is clarified).

²Although the district asserts some of the information is excepted from disclosure under section 552.101 of the Government Code in conjunction with section 552.107 of the Government Code, we note the exceptions in the Act are not law that makes information confidential for purposes of section 552.101. We also note section 552.101 does not encompass discovery privileges. *See* Open Records Decision Nos. 677 (2002), 676 (2002).

³We 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.

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.

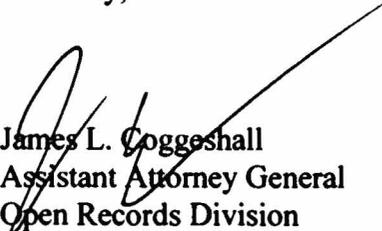
Gov't Code § 552.116. You state the submitted briefing-hotline reports, the submitted draft internal audit report, and the information you have marked in the weekly reports consist of audit working papers that the district prepares or maintains in conducting an audit. You further explain the district's internal auditor conducted the audits at issue as authorized by section 11.170 of the Education Code and the district's board of trustees. *See* Educ. Code § 11.170 (district's board of trustees may select internal auditor who reports directly to board). Based on your representations and our review, we agree this information consists of audit working papers for purposes of section 552.116. Accordingly, the district may withhold from release the submitted briefing-hotline reports, the submitted draft internal audit report, and the information you have marked in the weekly reports under

section 552.116 of the Government Code.⁴ The district must release the remaining information.

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tch

Ref: ID# 474342

Enc. Submitted documents

c: Requestor
(w/o enclosures)

⁴As our ruling is dispositive, we do not address your other arguments to withhold this information.