



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 25, 2014

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

OR2014-14941

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# 534126 (TEA PIR# 22204).

The Texas Education Agency (the "agency") received a request for all correspondence between the agency and a named judge, the Jefferson County District Attorney (the "district attorney"), the district attorney's assistants, or anyone acting in conjunction with or on behalf of the district attorney's office. You claim the submitted information is excepted from disclosure under sections 552.108 and 552.116 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

You state some of the requested information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2014-11727 (2014). In Open Records Letter No. 2014-11727, we determined the agency (1) may continue to rely on Open Records Letter Nos. 2014-08513 (2014), 2013-15863 (2013),

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.

2012-20199 (2012), 2011-08090 (2011), 2011-04693(2011), and 2010-06403 (2010) as previous determinations and withhold the identical information in accordance with those rulings; (2) may withhold certain information under section 552.107(1) of the Government Code; (3) may withhold certain information under section 552.108(a)(1) of the Government Code on behalf of the United States Department of Education ; (4) may withhold certain information under section 552.116 of the Government Code; and (5) must release the remaining information. We have no indication the law, facts, or circumstances on which the prior ruling was based have changed. Accordingly, the agency may continue to rely on Open Records Letter No. 2014-11727 as a previous determination and withhold or release the identical information in accordance with that ruling. *See* Open Records Decision No. 673 at 6-7 (2001) (discussing criteria for first type of previous determination). We will address the agency's arguments against release of the submitted information, which you state is not encompassed by Open Records Letter No. 2014-11727.

Section 552.116 of the Government Code provides the following:

(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 information consists of audit working papers prepared or maintained by the agency's Division of Complaints and Investigations in conjunction with audits of the Beaumont Independent School District. You inform us these audits were 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. Educ. Code § 39.057 (listing circumstances in which the commissioner shall authorize investigations). Upon review, we agree the submitted information consists of audit working papers for purposes of section 552.116. Therefore, the agency may withhold the submitted information under section 552.116 of the Government Code.²

In summary, the agency may continue to rely on Open Records Letter No. 2014-11727 as a previous determination and withhold or release the identical information in accordance with that ruling. The agency may withhold the submitted 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



David L. Wheelus
Assistant Attorney General
Open Records Division

DLW/bhf

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

Ref: ID# 534126

Enc. Submitted documents

c: Requestor
(w/o enclosures)