



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 22, 2016

Ms. Jeanne C. Collins
General Counsel
El Paso Independent School District
P.O. Box 20100
El Paso, Texas 79998-0100

OR2016-04146

Dear Ms. Collins:

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# 598996 (EPISD ORR No. 2015.475).

The El Paso Independent School District (the "district") received a request for information pertaining to a specified audit.¹ You state the district released some information. You claim the submitted information is excepted from disclosure under section 552.116 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

¹You state the district sought and received clarification of the request. *See* Gov't Code § 552.222(b) (providing that 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) (holding that when governmental entity, acting in good faith, requests clarification or narrowing of unclear or overbroad request for public information, ten-day period to request attorney general ruling is measured from date request is clarified or narrowed).

Initially, we note some of the submitted information is subject to section 552.022 of the Government Code. Section 552.022(a) provides, in relevant part:

(a) [T]he following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

(1) a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108[.]

Gov't Code § 552.022(a)(1). The submitted information contains a completed audit report subject to subsection 552.022(a)(1). The district must release the information at issue pursuant to subsection 552.022(a)(1) unless it is excepted from disclosure under section 552.108 of the Government Code or is made confidential under the Act or other law. *See id.* You seek to withhold the information at issue under section 552.116 of the Government Code. However, section 552.116 is discretionary in nature and does not make information confidential under the Act. *See Open Records Decision No. 665 at 2 n.5 (2000)* (discretionary exceptions generally). Therefore, the district may not withhold any of the information subject to section 552.022(a)(1), which we have indicated, under section 552.116 of the Government Code. As you raise no further exceptions to disclosure of this information, it must be released. However, we will address the applicability of section 552.116 to the remaining information, which is not subject to section 552.022.

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 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. You state the remaining information consists of audit working papers prepared or maintained in conducting an audit of inappropriate activities at a district elementary school. You state the audit was conducted by the district's internal auditor, 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 most of the remaining information consists of audit working papers for purposes of section 552.116. However, it is apparent some of the remaining information you seek to withhold pertains to the implementation of the district's corrective action plan in response to the audit. This information was created after the audit and was not prepared or maintained in conducting the audit or preparing the audit report. Thus, we find the information we have indicated for release is not audit working papers and may not be withheld under section 552.116 of the Government Code. Accordingly, with the exception of the information we have indicated for release, the district may withhold the remaining information under section 552.116 of the Government Code.

In summary, the district must release the final audit report we have indicated pursuant to section 552.022(a)(1) of the Government Code. Except for the information we have indicated for release, the district may withhold the remaining 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/>

[url_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,

A handwritten signature in black ink that reads "Britni Ramirez". The signature is written in a cursive, slightly slanted style.

Britni Ramirez
Assistant Attorney General
Open Records Division

BR/bhf

Ref: ID# 598996

Enc. Submitted documents

c: Requestor
(w/o enclosures)