



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 20, 2015

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

OR2015-14770

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# 572097 (TEA PIR# 24339).

The Texas Education Agency (the "agency") received a request for all correspondence between the agency and Dallas Independent School District from a specified time period applicable to forty-three schools rated by the agency as "improvement required." 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 representative sample of information.¹

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,

¹We assume that 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 that those records contain substantially different types of information than that submitted to this office.

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(a), (b)(1)–(2). You state a portion of the submitted information consists of audit working papers that were prepared or are maintained by the agency's Division of Program Monitoring and Interventions in conjunction with pending audits. You inform us these audits are being conducted under the authority granted to the agency by sections 7.021(b)(1) and 7.028(a) of the Education Code. *See* Educ. Code §§ 7.021(b)(1) (agency shall administer and monitor compliance with education programs), .028(a)(1) (agency may monitor program to ensure compliance with federal law and grant requirements). Based on your representations and our review, we agree the information at issue consists of audit working papers for purposes of section 552.116.

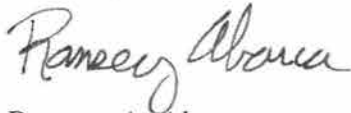
You state the remaining information consists of audit working papers prepared or maintained by the agency's Student Assessment Division Security Task Force in conducting an investigation of testing irregularities in the administration of statewide assessment instruments. You inform us the audit is authorized by section 39.057(a)(8) of the Education Code, which permits the Commissioner of Education to authorize special accreditation investigations to be conducted in response to an allegation regarding or an analysis using a

statistical method result indicating a possible violation of an assessment instrument security procedure. *See id.* § 39.057 (listing circumstances in which the commissioner shall authorize investigations). Upon review, we agree section 552.116 of the Government Code is applicable to the information at issue. Accordingly, the agency may withhold all the submitted information at issue 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,



Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/dls

Ref: ID# 572097

Enc. Submitted documents

c: Requestor
(w/o enclosures)