



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

November 16, 2016

Mr. Matthew M. Coleman  
Counsel for Southside Independent School District  
Eichelbaum Wardell Hansen Powell & Mehl, P.C.  
4201 West Palmer Lane, Suite A-100  
Austin, Texas 78727

OR2016-25590

Dear Mr. Coleman:

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# 634390.

The Southside Independent School District (the "district"), which you represent, received two requests for the Texas Education Agency (the "TEA") Preliminary Special Accreditation report regarding the district. One request also seeks the district's response to the report. You claim the submitted information is excepted from disclosure under sections 552.111 and 552.116 of the Government Code. Additionally, you state release of the information may implicate interests of the TEA. Accordingly, you state, and provide documentation showing, you notified the TEA of the request for information and of its right to submit arguments to this office as to why the information at issue should not be released. *See* Gov't § 552.304 (providing that interested party may submit comments stating why information should or should not be released). We have received comments from the TEA. We have considered the submitted arguments and reviewed the submitted information.

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 [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. The TEA states the submitted information consists of audit working papers maintained by the TEA’s Division of Governance and Investigations concerning a pending audit of the district. *See* Educ. Code § 39.058(b) (stating the agency shall present preliminary findings and give opportunity for informal review before issuing a final report). The TEA informs us the audit is authorized by section 39.057(a)(15) of the Education Code, which permits the Commissioner of Education to authorize special accreditation investigations to be conducted as he determines necessary. *See id.* § 39.057 (listing circumstances in which the commissioner shall authorize investigations). Upon review, we agree section 552.116 is applicable in this instance. Therefore, the district may withhold the submitted information under section 552.116 of the Government Code on behalf of the TEA.<sup>1</sup>

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure.

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](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,



Emily Kunst  
Assistant Attorney General  
Open Records Division

EK/eb

Ref: ID# 634390

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

1 Third Party  
(w/o enclosures)