



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 7, 2017

Mr. S. Anthony Safi
Counsel for El Paso Independent School District
Mounce, Green, Myers, Safi, Paxson & Galatzan PC
P.O. Box 1977
El Paso, Texas 79999-1977

OR2017-25456

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# 683376 (EPISD ORR Nos. W00492-080917 and W00537-082917, TEA ID# 30828).

The El Paso Independent School District (the "district"), which you represent, received two requests for information pertaining to the requestor.¹ The district states it will release some information to the requestor. The district claims the submitted information is excepted from disclosure under sections 552.101, 552.114, and 552.116 of the Government Code. The district also states, and provide documentation showing, it notified the Texas Education Agency (the "TEA") of the request for information and of the TEA's right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We received comments from the TEA. We have considered the submitted arguments and reviewed the submitted information.

¹You state the district sought and received clarification of the request for information. *See* Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

The district and the TEA both assert the submitted information is excepted from disclosure under section 552.116 of the Government Code. Section 552.116 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.

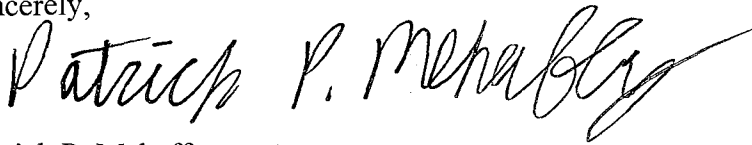
Id. § 552.116. The TEA states the submitted information consists of audit working papers prepared or maintained by the TEA's Student Assessment Division Security Task Force in conducting investigations of testing irregularities in the administration of statewide assessment instruments. The TEA informs us the audits are 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* Educ. Code § 39.057 (listing circumstances in which the commissioner shall authorize investigations). Based on these

representations and our review, we agree the submitted information consists of audit working papers for purposes of section 552.116. Therefore, the district may withhold the submitted information under section 552.116 of the Government Code on behalf of the TEA.²

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,



Patrick P. Mehaffy
Attorney
Open Records Division

PPM/eb

Ref: ID# 683376

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)

²As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.