



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 1, 2019

Mr. Robb D. Decker
Counsel for the Bloomington Independent School District
Walsh Gallegos Treviño Russo & Kyle P.C.
P.O. Box 460606
San Antonio, Texas 78246

OR2019-21189

Dear Mr. Decker:

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# 778630.

The Bloomington Independent School District (the "district"), which you represent, received a request for (1) the personnel file of a named former employee; (2) any complaints, concerns, allegations, or grievances against the named former employee; and (3) any documents provided to or received from any governmental agency regarding allegations against the named former employee. The district states it will release some information to the requestor. The district also states it has redacted student-identifying information from the submitted documents pursuant to the Family Educational Rights and Privacy Act ("FERPA"), section 1232g of title 20 of the United States Code.¹ The district claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. Additionally, the district states release of the submitted information may implicate the

¹The United States Department of Education Family Policy Compliance Office (the "DOE") has informed this office FERPA does not permit state and local educational authorities to disclose to this office, without parental or student consent, unredacted, personally identifiable information contained in education records for the purpose of our review in the open records ruling process under the Act. The DOE has determined FERPA determinations must be made by the educational authority in possession of the education records. A copy of this letter may be found on the Office of the Attorney General's website: <https://www.texasattorneygeneral.gov/sites/default/files/files/divisions/open-government/20060725-USDOE-FERPA.pdf>.

interests of the Texas Education Agency (“TEA”). Accordingly, the district states, and provides documentation showing, it notified TEA of the request for information pursuant to section 552.304 of the Government Code. *See* Gov’t Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released). We have received comments from 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.

Id. § 552.116. TEA states the information at issue consists of “audit working papers prepared or maintained by [its] Division of Educator Investigations in conjunction with a pending investigation of alleged educator misconduct.” TEA further states this pending audit is authorized by sections 21.031 and 21.041 of the Education Code. *See* Educ. Code §§ 21.031(a) (the agency shall regulate and oversee standards of conduct of public school

educations), .041(b) (the agency shall propose rules providing for disciplinary proceedings); 19 T.A.C. § 249.14(a) (the agency may obtain and investigate information concerning and educator's alleged improper conduct). Based upon these representations and our review, we agree the information at issue consists of audit working papers for purposes of section 552.116. Accordingly, the district may withhold the submitted information under section 552.116 of the Government Code on behalf of 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,



James M. Graham
Assistant Attorney General
Open Records Division

JMG/mo

Ref: ID# 778630

Enc. Submitted documents

c: Requestor
(w/o enclosures)

cc: 1 Third Party
(w/o enclosures)

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