



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 5, 2022

Ms. Kristi Godden
Counsel for the La Joya Independent School District
O'Hanlon, Demerath & Castillo
808 West Avenue
Austin, Texas 78701

OR2022-23405

Dear Ms. Godden:

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# 964170 (Ref. No. 22-029).

The La Joya Independent School District (the "district"), which you represent, received a request for specified communications during a particular timeframe. You claim the submitted information is excepted from disclosure under section 552.116 of the Government Code. Additionally, the district states it notified the State Fire Marshal's Office (the "fire marshal's office") of the request for information and of the right to submit arguments to this office as to why the submitted information should not be released.¹ See Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the exception you claim and reviewed the submitted information.

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, a hospital district, or a joint board operating under Section 22.074, Transportation Code, including any audit relating to the criminal history

¹ As of the date of this ruling, we have not received comments from the fire marshal's office.

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. The district seeks to withhold the submitted information under section 552.116 of the Government Code and states the information at issue consists of audit working papers maintained by the district in conjunction with an investigation mandated by statute. However, the purpose of section 552.116 is to protect the interests of the auditor, not the auditee. Here, the fire marshal’s office is the auditor, and the information at issue is maintained by the district, which is the auditee. As the auditee, the district may not assert section 552.116 to protect its own interests in withholding information from disclosure. Accordingly, the district may not withhold any of the submitted information under section 552.116 of the Government Code. As no other exceptions to disclosure have been raised, the submitted information must be released.

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable

charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Chase D. Young
Assistant Attorney General
Open Records Division

CDY/be

Ref: ID# 964170

Enc. Submitted documents

c: Requestor
(w/o enclosures)