



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 19, 2014

Mr. John A. Kazen  
Counsel for Laredo Independent School District  
Kazen, Meurer & Pérez, L.L.P.  
211 Calle Del Norte, Suite 100  
Laredo, Texas 78041

OR2014-23186

Dear Mr. Kazen:

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# 548372.

Laredo Independent School District (the "district"), which you represent, received a request for specified information pertaining to an investigation of a district employee. You indicate the district will redact some information from the requested information pursuant to the Family Educational Rights and Privacy Act ("FERPA"), section 1232g of title 20 of the United States Code.<sup>1</sup> You state you have released some of the requested information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101, 552.107, 552.116, and 552.135 of the Government Code.<sup>2</sup> Further, the district notified the Texas Education Agency (the "TEA") of the request and of its right to

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<sup>1</sup>The 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: <http://www.oag.state.tx.us/open/20060725usdoe.pdf>.

<sup>2</sup>Although you raise section 552.101 of the Government Code in conjunction with rule 503 of the Texas Rules of Evidence, this office has concluded that section 552.101 does not encompass discovery privileges. *See* Open Records Decision Nos. 677 (2002), 676 (2002). Further, we note the information is properly addressed here under section 552.107, rather than rule 503. Additionally, although you raise sections 552.106, 552.111, and 552.122 of the Government Code, you make no arguments to support these exceptions. Therefore, we assume you have withdrawn your claim these sections apply to the requested information. *See* Gov't Code §§ 552.301, .302.

submit arguments to this office as to why the requested 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 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.

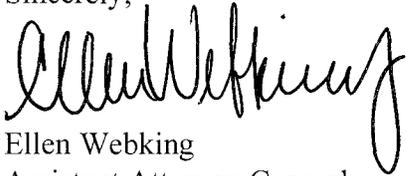
*Id.* § 552.116. The TEA states the information at issue consists of audit working papers maintained by the TEA's Division of Investigations and Fingerprinting in conjunction with a pending investigation of alleged educator misconduct. The TEA informs us the investigation is authorized by sections 21.031 and 21.041 of the Education Code and section 249.14 of title 19 of the Texas Administrative Code. *See* Educ. Code §§ 21.031(a) (TEA shall regulate and oversee standards of conduct of public school educators), .041(b) (TEA shall propose rules providing for disciplinary proceedings); 19 T.A.C. § 249.14(a) (TEA may obtain and investigate information concerning an educator's alleged improper conduct). 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>3</sup>

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,



Ellen Webking  
Assistant Attorney General  
Open Records Division

EW/ac

Ref: ID# 548372

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Mr. W. Montgomery Meitler  
Office of Legal Services  
Texas Education Agency  
1701 North Congress Avenue  
Austin, Texas 78701-1494  
(w/o enclosures)

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<sup>3</sup>As our ruling is dispositive, we need not address the remaining arguments against disclosure.