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ATTORNEY GENERAL OF TEXAS

March 18, 2015

Mr. Robert A. Schulman
Counsel for the South San Antonio Independent School District
Schulman, Lopez & Hoffer, L.L.P.
517 Soledad Street
San Antonio, Texas 78205-1508

OR2015-05138

Dear Mr. Schulman:

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# 556982.

The South San Antonio Independent School District (the "district"), which you represent, received a request for a specified preliminary report. You claim the submitted information is excepted from disclosure under section 552.116 of the Government Code. We have considered the exception you claim and reviewed the submitted information. We have also received and considered comments from the Texas Education Agency (the "TEA") and from a representative for the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

The TEA raises 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 [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.

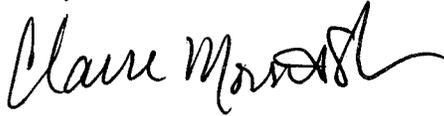
Id. § 552.116. The TEA states the information at issue consists of audit working papers maintained by the TEA's Division of Federal Fiscal Monitoring in conjunction with audits of grant recipients. The TEA informs us the investigation is authorized by sections 7.021(b)(1), 7.028(a)(1) and (a)(2), and 39.057(a)(4) of the Education Code and Subpart D of Office of Management and Budget Circular A-133. *See* Educ. Code §§ 7.021(a) (TEA shall administer and monitor compliance with education programs), .028(a)(1), (a)(2) (TEA may monitor program to ensure compliance with federal law and grant requirements), 39.057 (listing circumstances in which the Commissioner of Education 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.¹

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.

¹As our ruling is dispositive, we need not address your remaining arguments against disclosure of the submitted information.

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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 556982

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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