



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 21, 2015

Ms. Kelli H. Karczewski
Counsel for Beaumont Independent School District
Karczewski Bradshaw L.L.P.
315 North Church Street
Nacogdoches, Texas 75961

OR2015-22140

Dear Ms. Karczewski:

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# 584147.

The Beaumont Independent School District (the "district"), which you represent, received a request for all documents pertaining to a named individual's current employment status with the district and a list of all employees currently on district payroll while on administrative leave. You state you have released some information. You claim the submitted information is not subject to the Act, or in the alternative, is excepted from disclosure under sections 552.101 and 552.116 of the Government Code.¹ Additionally, you state you have notified a third party of the request. *See* Gov't Code § 552.304 (interested third party may submit comments stating why information should or should not be released).

¹Although you raise sections 552.022 and 552.305 of the Government Code, these provisions are not exceptions to disclosure. *See* Gov't Code §§ 552.022 (enumerating categories of information not excepted from disclosure unless made confidential under Act or other law), .305 (permitting interested third party to submit to attorney general reasons why requested information should not be released).

We have considered your arguments and reviewed the submitted representative sample of information.²

Initially, you argue the submitted information is not subject to the Act because the district's investigation is not complete. The Act applies to "public information," which is defined in section 552.002 of the Government Code as:

(a) . . . information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

(1) by a governmental body;

(2) for a governmental body and the governmental body:

(A) owns the information;

(B) has a right of access to the information; or

(C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or

(3) by an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business of the governmental body.

Id. § 552.002(a). Thus, virtually all of the information in a governmental body's physical possession constitutes public information under section 552.002. You explain the submitted information consists of a pending internal investigation into alleged employee misconduct. Based on our review, we find the submitted information was written, produced, collected, assembled, or maintained by the district in connection with the district's official business. Thus, we find the submitted information is subject to the Act and the district must release it unless the information falls within an exception to public disclosure under the Act. *Id.* §§ 552.006, .021, .301, .302. Accordingly, we will address your arguments against disclosure.

²This letter ruling assumes that the submitted representative sample of information is truly representative of the requested information as a whole. This ruling does not reach, and therefore does not authorize, the withholding of any other requested information to the extent that the other information is substantially different than that submitted to this office. See Gov't Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

Section 552.116 of the Government Code provides as follows:

(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. You inform us the district's Board of Managers (the "board") employs an internal auditor who has the continuing authority to audit and investigate allegations of employee misconduct consistent with section 11.170 of the Texas Education Code. *See* Educ. Code § 11.170 (providing district's board of trustees may select an internal auditor who reports directly to the board). You also explain the submitted information relates to a pending employee investigation authorized by the board. Based on your representations and our review, we agree the submitted information consists of audit working papers as defined

in section 552.116(b)(2). Accordingly, the district may withhold the submitted information under section 552.116 of the Government Code.³

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,



Mili Gosar
Assistant Attorney General
Open Records Division

MG/akg

Ref: ID# 584147

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.