



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 18, 2015

Mr. W. Montgomery Meitler
Senior Counsel
Office of Legal Services
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701-1494

OR2015-26691

Dear Mr. Meitler:

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# 591262 (TEA PIR# 25506).

The Texas Education Agency (the "agency") received a request for three categories of information pertaining to Progreso Independent School District (the "district"), to include a specified type of annual review, a specified type of quarterly review, and a specified preliminary report. You state you have released some information to the requestor. The agency claims the submitted information is excepted from disclosure under section 552.116 of the Government Code. We have considered the exception the agency claims and reviewed the submitted representative sample of information.¹ We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (permitting interested third party to submit to attorney general reasons why requested information should or should not be released).

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

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

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.

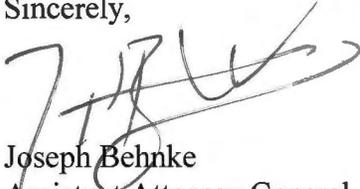
Gov't Code § 552.116. You state a portion of the information you have marked consists of audit working papers that were prepared or maintained by the agency's Division of Complaints, Investigations, and Enforcement in conjunction with an ongoing audit of the district. You inform us this audit was authorized by sections 39.051 and 39.052 of the Education Code. *See* Educ. Code §§ 39.051 (commissioner by rule shall determine criteria for accreditation statuses of accredited, accredited-warned, and accredited-probation), .052(a), (b)(1)-(2) (in determining accreditation status of school district, commissioner shall evaluate performance on student achievement indicators and performance under financial accountability rating system and may evaluate district's compliance with statutory requirements and requirements imposed by the rule of commissioner or State Board of Education). Additionally, you state the remaining information consists of audit working papers prepared or maintained by the agency's Division of Financial Compliance in conjunction with an audit of the district. You inform us this audit was authorized by section 39.057(a)(4) of the Education Code. *See id.* 39.057 (listing circumstances in which the commissioner shall authorize investigations). Based on your representations and our review, we agree the submitted information consists of audit

working papers for purposes of section 552.116. Therefore, the agency may withhold the submitted information under section 552.116 of the Government Code.

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,



Joseph Behnke
Assistant Attorney General
Open Records Division

JB/som

Ref: ID# 591262

Enc. Submitted documents

c: Requestor
(w/o enclosures)