



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 2, 2016

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

OR2016-09810

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# 608254 (TEA PIR# 26366).

The Texas Education Agency (the "agency") received a request for information related to a specified external review of the State Assessments of Academic Readiness ("STAAR") exams. You state you will release some information. You claim the submitted information is excepted from disclosure under sections 552.101, 552.116, and 552.122 of the Government Code. We have considered the exceptions you claim 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 (interested party may submit comments stating why information should or should not be released).

Section 552.116 of the Government Code provides as follows:

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 that those records contain substantially different types of information than that submitted to this office.

(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, 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 the requirements of Section 552.021. If information in an audit working paper is also maintained in another record, that other record is not excepted from the requirements of Section 552.021 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, 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 state the submitted information consists of audit working papers prepared or maintained by the agency's Division of Student Assessment. You inform us the audit is authorized by section 39.023(a-11) of the Education Code, which requires assessment instruments be determined valid and reliable by an independent party. *See* Educ. Code § 39.023(a-11) (before adoption, assessment instrument must be determined valid and reliable by entity independent of the agency). You state the agency contracted with a private entity to independently verify the validity and reliability of the STAAR assessment instruments at issue, and the entity's evaluation is pending. Upon review, we agree section 552.116 is applicable in this instance. Therefore, the agency may withhold the submitted information under section 552.116 of the Government Code.²

²As our ruling is dispositive, we need not address your remaining arguments against disclosure.

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,



Kavid Singh
Assistant Attorney General
Open Records Division

KVS/bhf

Ref: ID# 608254

Enc. Submitted documents

c: Requestor
(w/o enclosures)