



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 29, 2016

Mr. Robert A. Schulman
Counsel for the San Felipe Del Rio Consolidated Independent School District
Schulman, Lopez, Hoffer & Adelstein LLP
517 Soledad Street
San Antonio, Texas 78205-1508

OR2016-14841

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# 616722.

The San Felipe Del Rio Consolidated Independent School District (the "district"), which you represent, received a request for a specified report. You state you have redacted information pursuant to the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g(a). *See* Gov't Code §§ 552.026 (incorporating FERPA into the Act), .114 (excepting from disclosure "student records"); Open Records Decision No. 539 (1990) (determining the same analysis applies under section 552.114 of the Government Code and FERPA).¹ You claim the submitted information is excepted from disclosure under sections 552.101, 552.103, and 552.116 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.116 of the Government Code provides as follows:

¹The 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 an adult student's 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 educational records. We have posted a copy of the letter from the DOE on the Attorney General's website at <https://www.texasattorneygeneral.gov/files/og/20060725usdoe.pdf>.

(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.

Gov’t Code § 552.116. You state the submitted information consists of audit working papers prepared or maintained in conducting an audit of inappropriate activities at a district school. We understand the audit was conducted by the district’s internal auditor, as authorized by section 11.170 of the Education Code and the district’s board of trustees. *See* Educ. Code § 11.170 (district’s board of trustees may select internal auditor who reports directly to board). Based on your representations and our review, we agree the submitted information consists of audit working papers for purposes of section 552.116. Accordingly, the district 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,

A handwritten signature in black ink, appearing to read "Tim Neal", written in a cursive style.

Tim Neal
Assistant Attorney General
Open Records Division

TN/bw

Ref: ID# 616722

Enc. Submitted documents

c: Requestor
(w/o enclosures)