



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 16, 2017

Mr. Nathan T. Brown  
Assistant City Attorney  
City Attorney's Office  
City of New Braunfels  
550 Lansda Street  
New Braunfels, Texas 78130

OR2017-10480

Dear Mr. Brown:

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# 658168 (PIR# CSO 2017-143).

The City of New Braunfels (the "city") received a request for specified questions and answers to a specified promotional exam. You claim the submitted information is excepted from disclosure under section 552.122 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."<sup>1</sup> Gov't Code § 552.101. Section 552.101 encompasses section 143.032 of the Local Government Code, which provides a person commits an offense if the person knowingly or intentionally reveals a part of a promotional examination to an unauthorized person or receives from an authorized or unauthorized person a part of a promotional examination for unfair personal gain or advantage. *See* Local Gov't Code § 143.032(h); *see also id.* § 143.032 (classifying violation of subsection (h) as criminal offense). We note the city is a civil service city under chapter 143 of the Local Government Code. We find the clear language of section 143.032 makes the submitted promotional examination questions and answer sheets, as "part of a

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

promotional examination," generally confidential and permits their disclosure only to an authorized person. *Cf.* Open Records Decision No. 584 (1991) (statute making release of information criminal offense deems information confidential by law for purposes of section 552.101).

We note section 143.034 of the Local Government Code entitles eligible promotional candidates from fire or police departments to inspect their own promotional examination and answers, the examination grading, and the source material for the examination. *See* Local Gov't Code § 143.034(a); *see also id.* § 143.034(b) (prohibiting eligible promotional candidate from removing examination or copying examination questions). In this instance, the requestor took the promotional examination at issue. Therefore, pursuant to section 143.034(a), the requestor is authorized to inspect his own promotional examination and answers, examination grading, and source material for the examination. Although you seek to withhold the submitted questions and answers of the promotional examination under section 552.122 of the Government Code, we note a statutory right of access generally prevails over the exceptions to public disclosure under the Act. *See, e.g.,* Open Records Decision Nos. 613 at 4 (1993) (exceptions in Act cannot impinge on statutory right of access to information), 451 (1986) (specific statutory right of access provisions overcome general exception to disclosure under the Act). Accordingly, the city must allow the requestor to inspect his own promotional examination, consisting of the submitted questions and answers. However, the requestor may not remove his examination or copy the questions. *See* Local Gov't Code § 143.034(b) (prohibiting eligible promotional candidate from removing examination or copying examination questions).

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](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,



Kelly McWethy  
Assistant Attorney General  
Open Records Division

KSM/sb

Ref: ID# 658168

Enc. Submitted documents

c: Requestor  
(w/o enclosures)