



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 12, 2017

Ms. Ylise Janssen
General Counsel
Austin Independent School District
1111 West 6th Street
Austin, Texas 78703

OR2017-23346

Dear Ms. Janssen:

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# 681447.

The Austin Independent School District (the "district") received a request for records pertaining to the requestor's employment application for a specified position. We understand the district has released some information to the requestor.¹ 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. 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 552.122 of the Government Code excepts from disclosure "[a] test item developed by an educational institution that is funded wholly or in part by state revenue[.]" *Id.* § 552.122(a). In Open Records Decision No. 626 (1994), this office determined the term "test item" in section 552.122 includes "any standard means by which an individual's or group's knowledge or ability in a particular area is evaluated." *Id.* at 6. The question of

¹We note the district sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

whether specific information falls within the scope of section 552.122(b) must be determined on a case-by-case basis. *Id.* Traditionally, this office has applied section 552.122 where release of “test items” might compromise the effectiveness of future examinations. *Id.* at 4-5; *see also* Open Records Decision No. 118 (1976). Section 552.122 also protects the answers to test questions when the answers might reveal the questions themselves. *See* Attorney General Opinion JM-640 at 3 (1987); ORD 626 at 8.

You represent the district is an educational institution funded wholly or in part by state revenue. You seek to withhold the submitted questions and the answers to the submitted questions under section 552.122 of the Government Code. We understand the district anticipates using the interview questions to evaluate applicants for the police officer position in the future, and their release would compromise the effectiveness of future examinations. Based on your representations and our review, we find some of the submitted interview questions, which we marked, are “test items” under section 552.122(a) of the Government Code. Furthermore, we find release of the answers to these questions would reveal the questions themselves. Therefore, the district may withhold the questions and corresponding answers we marked under section 552.122(b) of the Government Code. However, we find the remaining questions at issue do not evaluate an individual’s or group’s knowledge or ability in a particular area. Rather, the remaining information at issue reveals questions that evaluate an applicant’s individual abilities, personal opinions, and subjective ability to respond to a particular situation. Accordingly, the district may not withhold any of the remaining information under section 552.122 of the Government Code. As you raise no further exceptions to disclosure, the district must release the remaining information.

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,



Kieran Hillis
Assistant Attorney General
Open Records Division

KH/sb

Ref: ID# 681447

Enc. Submitted documents

c: Requestor
(w/o enclosures)