



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 12, 2017

Mr. Sharbel Sfeir
Assistant General Counsel
Office of General Counsel
Texas Department of Criminal Justice
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2017-28135

Dear Mr. Sfeir:

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# 689011 (ORR# ZT0072).

The Texas Department of Criminal Justice (the "department") received a request for information pertaining to a named individual, including employment application information. The department states it has released some of the requested information. The department claims the submitted information is excepted from disclosure under section 552.122 of the Government Code. We have considered the exception the department claims and reviewed the submitted information.

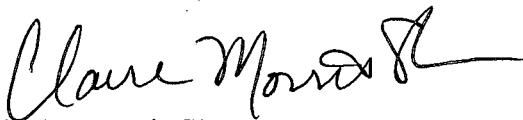
Section 552.122(a) of the Government Code excepts from disclosure "[a] test item developed by an educational institution that is funded wholly or in part by state revenue[.]" Gov't Code § 552.122(a). In Open Records Decision No. 626 (1994), this office determined the term "test item" in section 552.122 includes "any standard means by which an individual's or group's knowledge or ability in a particular area is evaluated." ORD 626 at 6. The question of whether specific information falls within the scope of section 552.122(a) must be determined on a case-by-case basis. *Id.* at 7. Traditionally, this office has applied section 552.122 where release of "test items" might compromise the effectiveness of future examinations. *See* Open Records Decision No. 118 (1976). *See generally* ORD 626 at 4-5. 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).

The department seeks to withhold the submitted questions and answers under section 552.122 of the Government Code. The department asserts the questions test the knowledge and abilities of applicants in a particular area. The department also informs us it uses the submitted questions on a continuing basis. Based on these representations and our review, we find Question 4 is a "test item" under section 552.122(a) of the Government Code. Furthermore, we find release of the answer and sample answer to Question 4 would reveal the question itself. Therefore, the department may withhold Question 4 and its answer and sample answer under section 552.122(a) 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 questions evaluate an applicant's individual abilities, personal opinions, and subjective ability to respond to a particular situation. Accordingly, the department may not withhold any portion of the remaining information under section 552.122 of the Government Code. The department 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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 689011

Enc. Submitted documents

c: Requestor
(w/o enclosures)