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ATTORNEY GENERAL OF TEXAS

June 11, 2019

Mr. Christopher B. Gilbert
Counsel for the La Porte Independent School District
Thompson & Horton, LLP
3200 Southwest Freeway, Suite 2000
Houston, Texas 77027

OR2019-15558

Dear Mr. Gilbert:

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# 767980 (Request# LPISD2018.001).

The La Porte Independent School District (the "district"), which you represent, received a request for eleven categories of information pertaining to courses on the Bible. You state the district will release some information. You claim the submitted information is excepted from disclosure under sections 552.102 and 552.122 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.102(b) of the Government Code excepts from public disclosure "a transcript from an institution of higher education maintained in the personnel file of a professional public school employee[.]" Gov't Code § 552.102(b). This exception further provides, however, that "the degree obtained or the curriculum on a transcript in the personnel file of the employee" are not excepted from disclosure. *Id.*; *see also* Open Records Decision No. 526 (1989). Thus, with the exception of the employee's name, courses taken, and degrees obtained, the district must withhold Exhibit C pursuant to section 552.102(b) of the Government Code.

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[.]" 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." *Id.* 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.* 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.

We understand the district is an educational institution funded wholly or in part by state revenue. You seek to withhold the submitted questions under section 552.122 of the Government Code. You state the district anticipates using the exam questions in the future and their release would compromise the effectiveness of future examinations. Based on your representations and our review, we agree the submitted exam questions are “test items” under section 552.122(a) of the Government Code. Therefore, the district may withhold Exhibit B under section 552.122(a) of the Government Code.

In summary, with the exception of the employee’s name, courses taken, and degrees obtained, which must be released, the district must withhold Exhibit C pursuant to section 552.102(b) of the Government Code. The district may withhold Exhibit B under section 552.122(a) of the Government Code.

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,



Kelly McWethy
Assistant Attorney General
Open Records Division

KSM/mo

Ref: ID# 767980

c: Requestor