



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 26, 2019

Mr. W. Montgomery Meitler
Senior Counsel
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701-1494

OR2019-23840

Dear Mr. Meitler:

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# 782742 (TEA PIR# 38643).

The Texas Education Agency ("TEA") received a request for a specified portion of State of Texas Assessments of Academic Readiness (STAAR) exams. You claim the submitted information is exempted from disclosure under sections 552.101 and 552.122 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

Section 552.101 of the Government Code exempts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses section 39.030(a) of the Education Code, which provides as follows:

(a) In adopting academic skills assessment instruments under [subchapter B, chapter 39 of the Education Code], the State Board of Education or a school district shall ensure the security of the instruments and tests in their preparation, administration, and grading. Meetings or portions of meetings held by the State Board of Education or a school district at which individual assessment instruments or assessment instrument items are disclosed or adopted are not open to the public under Chapter 551, Government Code, and the assessment instruments or assessment instrument items are confidential.

¹ We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

Educ. Code § 39.030(a). TEA states it has the authority to adopt and administer the STAAR test pursuant to the academic skills assessment program adopted by the State Board of Education under chapter 39 of the Education Code. *See id.* §§ 39.022, .023. TEA informs us the information at issue constitutes the assessment items for particular STAAR English III assessments. Based on these representations and our review of the submitted information, we agree the information at issue is confidential under section 39.030(a) of the Education Code and TEA must withhold it under section 552.101 of the Government Code.²

You also ask this office to issue a previous determination that would permit TEA to withhold certain information under section 552.101 of the Government Code in conjunction with section 39.030(a) of the Education Code without the necessity of requesting a decision from our office under section 552.301 of the Government Code. We decline to issue such a previous determination at this time. Accordingly, 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Meagan Conway
Assistant Attorney General
Open Records Division

MC/gw

Ref: ID# 782742

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²As our ruling is dispositive, we do not address the other argument of TEA to withhold this information.