



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 30, 2022

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

OR2022-18991

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# 956834 (Ref. No. 53123).

The Texas Education Agency (the "TEA") received a request for certain information pertaining to State of Texas Assessments of Academic Readiness ("STAAR") testing. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. Additionally, you state release of this information may implicate the proprietary interests of Cambium Assessment, Inc. Accordingly, you state you notified the third party of the request for information and of the right to submit arguments to this office as to why the information at issue should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>1</sup>

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

---

<sup>1</sup> 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 that those records contain substantially different types of information than that submitted to this office.

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.

Educ. Code § 39.030(a). You state the TEA 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. You inform us the submitted information concerns the development of the assessment program and test items for the STAAR assessments. Based on these representations and our review, we agree the submitted information is confidential under section 39.030(a) of the Education Code, and the TEA must withhold it under section 552.101 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 <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,

Michelle Garza  
Assistant Attorney General  
Open Records Division

MRG/jxd

Ref: ID# 956834

c: Requestor

Third Party