



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**JOHN L. MULLIGAN
ATTORNEY GENERAL**

January 2, 1976

The Honorable Leo F. Brockmann
Director
Merit System Council
507 Brown Building
Austin, Texas 78767

Open Records Decision No. 118

Re: Whether Open Records
Act requires disclosure of
Merit System Council exam-
ination.

Dear Mr. Brockmann:

You have received a request for a copy of a competitive examination taken and failed by the requestor. You ask whether the Open Records Act, article 6252-17a, V.T.C.S., compels disclosure of the examination.

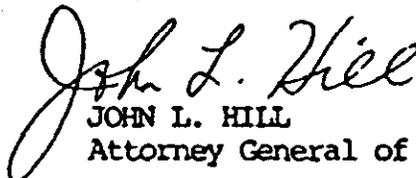
The Open Records Act is a general public disclosure statute giving any person access to governmental records without reference to his particular circumstances, motive or need. Open Records Decision No. 108 (1975). The fact that this requestor may have a due process or other special interest in this examination is not relevant to a determination of whether or not the Open Records Act compels its disclosure to the public.

We have held that the authority to conduct an examination necessarily includes authority to maintain the confidentiality of the questions used to test the knowledge of the person examined. The Legislature did not intend the Open Records Act to give prior access to examination questions and thus render all state examinations useless. Attorney General Opinion H-242 (1974).

We have also held that where an examining agency's policy is to reuse examination questions and knowledge of a past examination's questions would compromise the effectiveness of future examinations, the agency may maintain the confidentiality of past examination questions. The Open Records Act does not require the destruction of a testing device simply because it has been used once. Attorney General Opinion H-483 (1974).

You advise that the questions in the examination requested are reused by the Merit System Council. Accordingly, under the reasoning of Attorney General Opinions H-483 (1974) and H-242 (1974), it is our opinion that examinations given by the Merit System Council are confidential by law and excepted from disclosure by section 3(a)(1) of the Open Records Act.

Very truly yours,


JOHN L. HILL
Attorney General of Texas

APPROVED:


DAVID M. KENDALL, First Assistant


C. ROBERT HEATH, Chairman
Opinion Committee

jwb