



Office of the Attorney General  
State of Texas

May 22, 1992

DAN MORALES  
ATTORNEY GENERAL

Mr. Jim Pickett  
Superintendent of Schools  
Galveston Independent School District  
P. O. Drawer 660  
Galveston, Texas 77553

OR92-226

Dear Mr. Pickett:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 15771.

You have received a request for copies of various standardized achievement and cognitive ability tests currently administered to students of the Galveston Independent School District (the "GISD"). Specifically, the requestor seeks "copies of the first and third grade level ITBS, CAT, and NAFT tests that are being administered to G.I.S.D. school children between the dates of 6 April through 14 April, 1992." You claim that the requested information is excepted from required public disclosure by sections 3(a)(1) and 3(a)(22).

Section 3(a)(1) excepts from required public disclosure "information deemed confidential by law, either Constitutional, statutory, or by judicial decision." You advise us that some of the requested test items are authorized by section 21.551 of the Education Code, which provides:

(a) the Central Education Agency shall adopt appropriate criterion referenced assessment instruments designed to assess competencies in reading, writing, social studies, science, and mathematics for all pupils at the third, fifth, seventh, and ninth grade levels . . . .

Educ. Code § 21.551(a).

Section 21.556 of the same subchapter provides:

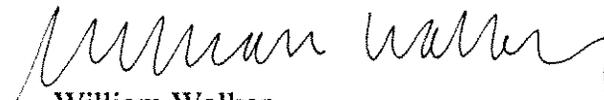
(a) In adopting basic skills assessment instruments and achievement tests pursuant to this subchapter, the State Board of Education and/or a local school district shall insure the security of the instruments and tests in their preparation, administration, and grading.

Educ. Code § 21.556(a). Accordingly, access to third grade level tests is clearly prohibited by state statute and thus excepted from required public disclosure under section 3(a)(1) of the Open Records Act.

GISD advises that a school district may on occasion administer first grade level tests to third graders. Moreover, some of the contents of first grade level tests are identical to the contents of third grade tests and are inextricably intertwined with first grade level test information. Therefore, release of tests administered to first graders would violate the provisions of section 21.556 of the Education Code. Accordingly, the requested test materials must be withheld in their entirety under section 3(a)(1) of the Open Records Act.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-226.

Yours very truly,



William Walker  
Assistant Attorney General  
Opinion Committee

WW/GCK/lmm

Ref.: ID# 15771  
ID# 15880

cc: Ms. Rhonda Carlson  
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