



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

August 3, 1994

Mr. Donald J. Walheim  
Schulman, Walheim, Beck & Heidelberg, Inc.  
745 East Mulberry Street, Suite 700  
San Antonio, Texas 78212

OR94-431

Dear Mr. Walheim:

In October 1992, the San Antonio Independent School District, which you represent, received a request for information regarding applications for the position of microcomputer support specialist. You subsequently requested a determination regarding some of the requested information pursuant to section 552.301(a) of the Texas Open Records Act (the "act"), Government Code chapter 552.<sup>1</sup> That information encompassed 6 categories. In Open Records Letter No. 93-550 (copy enclosed), we addressed the availability of most of the requested information under the act. We withheld a determination, however, with respect to portions of Exhibit 6, which we now address. We have assigned your request ID# 21651.

You claim that the microcomputer support specialist interview questions (Exhibit 6) are excepted from required public disclosure by section 552.122, which excepts

- (a) A curriculum objective or test item developed by an educational institution that is funded wholly or in part by state revenue . . . [and]
- (b) A test item developed by a licensing agency or governmental body.

---

<sup>1</sup>We note that the Seventy-third Legislature repealed V.T.C.S. article 6252-17a. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

Gov't Code § 552.122.<sup>2</sup> In Open Records Decision No. 626 (1994) (copy enclosed) this office determined that 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, but does not encompass evaluations of an employee's overall job performance or suitability. An evaluation does not necessarily constitute a test, however, simply because it is labelled as a test, because it is comprised of questions and answers, or because it involves some sort of scoring system. *Id.* Whether information falls within the section 552.122 exception must be determined on a case-by-case basis. *Id.*

The documents at issue here appear to reflect the interviewer's evaluations of the applicants before him and contain notations reflecting the applicants' responses to questions. We conclude that some of the questions constitute "test items" within the meaning of section 552.122. This information has been marked and may be withheld from required public disclosure under section 552.122 of the Government Code. The remaining information, however, constitutes evaluations of applicants' overall job suitability. This information may not be withheld from required public disclosure under section 552.122 and must be released.

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 contact this office.

Very truly yours,



Loretta R. DeHay  
Assistant Attorney General  
Open Government Section

LRD/GCK/rho

Ref: ID# 21651

Enclosures: Open Records Decision No. 626  
Open Records Letter No. 93-550  
Marked documents

cc: Mr. Saade Samaan  
P.O. Box 29614  
San Antonio, Texas 78229-0614  
(w/o enclosures)

---

<sup>2</sup>The Seventy-third Legislature deleted the reference to "curriculum objectives" in former section 3(a)(22), V.T.C.S. article 6252-17a. See Acts 1993, 73d Leg., ch. 347, § 8.30, at 1557. This amendment is not reflected in the codification of former section 3(a)(22) as section 552.122 of the Government Code.