



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 15, 2008

Ms. Mia M. Martin
General Counsel
Richardson Independent School District
400 South Greenville Avenue
Richardson, Texas 75081-4198

OR2008-04991

Dear Ms. Martin:

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# 307323.

The Richardson Independent School District (the "district") received a request for the benchmark test materials, including tests and answer sheets, of the requestors' child. You state the district has released the separate scantron answer sheets for the tests and the student's computations on the "7th Pre AP Supplement" and the math exam to the requestors. You claim that the test questions are excepted from disclosure under section 552.122 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.²

¹Although you raise section 552.101 of the Government Code in conjunction with section 552.122 of the Government Code, this office has concluded that section 552.101 does not encompass other exceptions found in the Act. *See* Open Records Decision Nos. 676 at 1-2 (2002), 575 at 2 (1990).

²We assume that 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.

The requested tests are subject to section 26.006 of the Education Code. Section 26.006 provides in relevant part:

(a) A parent is entitled to:

(1) review all teaching materials, textbooks, and other teaching aids used in the classroom of the parent's child; and

(2) review each test administered to the parent's child after the test is administered.

(b) A school district shall make teaching materials and tests readily available for review by parents. The district may specify reasonable hours for review.

Educ. Code § 26.006(a), (b). In this instance, the parents of a district student request tests that were administered to their child. You claim that the requested tests are excepted from disclosure under section 552.122 of the Government Code, an exception to disclosure found in the Act. However, statutes which govern access to specific information prevail over the Act's generally applicable exceptions. *See* Open Records Decision Nos. 623 (1994), 525 (1989) (as a general rule Act's exceptions do not apply to information that other statutes make public). Accordingly, we find that the requestors have a statutory right of access to the submitted information under section 26.006 of the Education Code. Therefore, the district must allow the requestors access to the requested tests pursuant to section 26.006 of the Education Code.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body

will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can challenge that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Laura E. Ream
Assistant Attorney General
Open Records Division

LER/jb

Ref: ID# 307323

Enc. Submitted documents

c: Mr. & Mrs. D'Wayne Priestly
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(w/o enclosures)