ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 3, 2012

Mr. W. Montgomery Meitler
Assistant Counsel
Office of Legal Services
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701-1494

OR2012-12207

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# 461027 (TEA PIR No. 17568).

The Texas Education Agency (the "agency") received a request for a copy of the State of Texas Assessment of Academic Readiness test (the "STAAR test") administered at a specified school district during a specified time period. You claim the submitted information is excepted from disclosure pursuant to sections 552.101 and 552.122 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.[1]

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 exception encompasses information protected by other statutes. You claim the submitted information is confidential under section 39.030(a) of the Education Code, which provides as follows:

[1]We assume the "representative sample" of information 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.

> (a) 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 agency 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 claim the information at issue constitutes assessment instrument items as contemplated by subchapter B, chapter 39 of the Education Code. Based on your representations and our review of the submitted information, we agree the information at issue is confidential under section 39.030(a) of the Education Code and must be withheld under section 552.101 of the Government Code.[2]

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 http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/tch

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[2]As our ruling is dispositive, we need not address your remaining argument against disclosure.

Ref: ID# 461027

Enc. Submitted documents

c: Requestor
(w/o enclosures)