



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 3, 2013

Mr. Andrew B. Thompson
Assistant General Counsel
Office of Legal Services
Corpus Christi Independent School District
P.O. Box 110
Corpus Christi, Texas 78403-0110

OR2013-17259

Dear Mr. Thompson:

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# 502493.

The Corpus Christi Independent School District (the "district") received a request for documents related to the hiring of two specified positions. You state the district will release some of the requested information to the requestor. You claim the submitted information is excepted from disclosure under section 552.122 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.122(b) of the Government Code excepts from disclosure "a test item developed by a . . . governmental body[.]" Gov't Code § 552.122(b). In Open Records Decision No. 626 (1994), 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. ORD 626 at 6. The question of whether specific information falls within the scope of section 552.122(b) must be determined on a case-by-case basis. *Id.* Traditionally, this office has applied section 552.122 where release of "test items" might compromise the effectiveness of future examinations. *Id.* at 4-5; *see also* Open Records Decision No. 118 (1976). Section 552.122 also protects the answers to test questions when

the answers might reveal the questions themselves. *See* Attorney General Opinion JM-640 at 3 (1987); ORD 626 at 8.

You state the submitted interview questions “are intended to assess the candidates knowledge and ability in relation to a position as campus administrator.” Further, you argue release of the information at issue could compromise future interviews. However, we find the submitted information evaluates each applicant’s general workplace skills and overall suitability for employment, and does not test any specific knowledge of an applicant. Accordingly, the submitted information does not constitute test items and may not be withheld under section 552.122(b). However, we note some of the submitted information may be subject to section 552.117(a)(1).¹

Section 552.117(a)(1) of the Government Code excepts from disclosure the home address and telephone number, emergency contact information, social security number, and family member information of a current or former official or employee of a governmental body who timely requests this information be kept confidential under section 552.024. Gov’t Code §§ 552.024, .117. The protections of section 552.117 only apply to information that the governmental body holds in its capacity as an employer. *See id.* § 552.117(a)(1) (providing that employees of governmental entities may protect certain personal information in the hands of their employer); Open Records Decision No. 455 (1987) (statutory predecessor to section 552.117 does not except information pertaining to applicants who are not employees). Whether a particular item of information is protected by section 552.117(a)(1) must be determined at the time of the governmental body’s receipt of the request for the information. *See* Open Records Decision No. 530 at 5 (1989). Thus, information may only be withheld under section 552.117(a)(1) on behalf of a current or former employee who made a request for confidentiality under section 552.024 prior to the date of the governmental body’s receipt of the request for the information or not later than the 14th day after the date on which the employee began employment with the governmental body. *See* Gov’t Code § 552.024(b). Information may not be withheld under section 552.117(a)(1) on behalf of a current or former employee who did not timely request under section 552.024 the information be kept confidential. We note the submitted information contains information that may be protected under section 552.117; however, we are unable to tell if this information applies to an applicant or district employee. Therefore, to the extent the information we have marked pertains to an applicant who was ultimately hired or to a current district employee, the district must withhold such information under section 552.117(a)(1) if the individuals at issue timely requested confidentiality under section 552.024. Conversely, to the extent the individual whose information we have marked was not ultimately hired or is a district employee who did not timely request confidentiality under section 552.024, the district may not withhold her personal information under

¹The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body. *See* Open Records Decision Nos. 481 at 2,480 at 5 (1987).

section 552.117(a)(1) of the Government Code. The remaining information must be released.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Strain', is written over the word 'Sincerely,'.

Tamara R. Strain
Assistant Attorney General
Open Records Division

TRS/bhf

Ref: ID# 502493

Enc. Submitted documents

c: Requestor
(w/o enclosures)