



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 31, 2014

Mr. Carey E. Smith
General Counsel
Texas Health and Human Services Commission
Mail Code - 1070
P.O. Box 13247
Austin, Texas 78711

OR2014-13247

Dear Mr. Smith:

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# 536241.

The Texas Health and Human Services Commission (the "commission") received a request for information pertaining to the requestor's interview for a specified position. You state the commission is releasing 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(a) of the Government Code excepts from disclosure "[a] test item developed by an educational institution that is funded wholly or in part by state revenue[.]" Gov't Code § 552.122(a). In Open Records Decision No. 626 (1994), this office determined 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." ORD 626 at 6. The question of whether specific information falls within the scope of section 552.122(a) must be determined on a case-by-case basis. *Id.* at 7. Traditionally, this office has applied section 552.122 where release of "test items" might compromise the effectiveness of future examinations. *See* Open Records Decision No. 118 (1976). *See generally* ORD 626 at 4-5.

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).

You seek to withhold the submitted questions and answers under section 552.122 of the Government Code. You state the information at issue consists of standard test items that are used to evaluate an individual or group's knowledge in a particular area. Based on your representations and our review, we agree the submitted questions are "test items" under section 552.122(b) of the Government Code. Furthermore, we find release of the answers to the submitted questions would reveal the questions themselves. Therefore, the commission may withhold the submitted questions and the answers to these questions under section 552.122(b) of the Government Code.

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 536241

Enc. Submitted documents

c: Requestor
(w/o enclosures)