



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 30, 2014

Ms. Karla Schultz
Counsel for the Hays Consolidated Independent School District
Walsh, Anderson, Gallegos, Green and Trevino, P.C.
505 East Huntland Drive, #600
Austin, Texas 78752

OR2014-09261

Dear Ms. Schultz:

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# 526924.

The Hays Consolidated Independent School District (the "district"), which you represent, received a request for the requestor's daughter's end of unit exams. 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 representative sample of information.¹

We note, and you acknowledge, the test at issue is subject to section 26.006 of the Education Code. Section 26.006 provides in relevant part:

¹We 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.

(a) A parent is entitled to:

(1) review all teaching materials, instructional materials, 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 requestor is a parent of the child to whom the test at issue was administered. Thus, section 26.006 is applicable to the test at issue. However, you claim this test is excepted from disclosure under section 552.122 of the Government Code, an exception to disclosure found in the Act. We note statutes that govern access to specific information prevail over the Act's general 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 the requestor's statutory right of access to the test at issue under section 26.006(b) of the Education Code prevails over section 552.122 of the Government Code. Consequently, the district must allow the requestor access to the information at issue pursuant to section 26.006(b) of the Education Code.

We note some of the submitted information may be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; *see* Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit. Thus, the submitted information must be made available to the requestor, but any information that is protected by copyright may only be released in accordance with copyright law.

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 'Thana Hussaini', written over a faint, illegible stamp or background.

Thana Hussaini
Assistant Attorney General
Open Records Division

TH/som

Ref: ID# 526924

Enc. Submitted documents

c: Requestor
(w/o enclosures)