



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 11, 2016

Ms. Heather M. Castillo  
Counsel for the Hurst-Euless-Bedford Independent School District  
Brackett & Ellis, P.C.  
100 Main Street  
Fort Worth, Texas 76102-3090

OR2016-18159

Dear Ms. Castillo:

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# 623014.

The Hurst-Euless-Bedford Independent School District (the "district"), which you represent, received a request for "all curriculum records currently in use or planned for 2016-2017 at [the district] for elementary, middle, and high school[,] excluding test items."<sup>1</sup> You inform us the district will release the responsive information that does not consist of copyrighted materials or test items. You claim the remaining requested information is protected by copyright law. You also state release of the submitted information may implicate the proprietary interests of several third parties.<sup>2</sup> Accordingly, you state, and provide

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<sup>1</sup>You state the district sought and received clarification of the information requested. *See* Gov't Code § 552.222(b) (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

<sup>2</sup>The third parties include Accelerate Learning, Inc. ("Accelerate"); Advanced Placement Strategies, Inc.; Attainment Company, Inc.; Bedford, Freeman, and Worth; BFW Freeman; Boynton/Cook Publishers; Cengage Learning ("Cengage"); Center for the Collaborative Classroom; CEV Multimedia, Inc.; Charles A Dana Center; The College BoardCore Knowledge Foundation ("CKF"); Conscious Discipline; Corwin Literacy;

documentation showing, you notified these third parties of the request for information and of their rights to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have received comments from Accelerate, Cenage, and CKF. We have considered the submitted arguments and reviewed the submitted representative sample of information.<sup>3</sup>

Section 552.027 of the Government Code provides the Act does not require a governmental body to allow the inspection of or to provide a copy of information in a commercial publication purchased or acquired by the governmental body for research purposes if the publication is commercially available to the public. *See* Gov't Code § 552.027(a). Section 552.027 is designed to alleviate the burden of providing copies of commercially available books, publications, and resource materials maintained by governmental bodies, such as telephone directories, dictionaries, encyclopedias, statutes, and periodicals. You state the information at issue is commercially available. You explain the information at issue consists of copyrighted textbooks and other materials the district has acquired from the interested third parties. We understand the information at issue is commercially available to the public, and the district acquired the information at issue for research purposes. Based on your representations and our review of the information at issue, we find the information at issue consists of information purchased or acquired by the district for research purposes that is commercially available to the public. Thus, we find the remaining requested information need not be released to the requestor.<sup>4</sup>

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.

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Curriculum Associates; Davis PublicationsThe DBQ Project; Delmar Learning; Educators Publishing Service; EduSmart; Empowering Writers; Goodheart-Wilcox; Handwriting Without Tears; Heinemann; Houghton Mifflin Harcourt; Human Kinetics; International Baccalaureate Organization; Jarrett Publishing Company; JW Pepper MusicMath Learning Center; Mauphin House BooksMcGraw-Hill Education; Mentoring Minds, LP; Mondo Publishing; MTS Publications; New2You; Oxford University Press; Pearson Education, Inc.; Prufrock Press, Inc.; QEP Professional Books; Region 4 Education Service Center; Russell's Education Consulting; Samuel French, Inc.; Scholastic, Inc.; Signal Media; Stenhouse Publishers; Teacher Curriculum Institute; Texas Law Related Education, Inc.; Texas Scottish Rite Hospital; VIS Enterprises; Wadsworth Publishing; Woodyard Publications; and Zoophonics

<sup>3</sup>We assume 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 those records contain substantially different types of information than that submitted to this office.

<sup>4</sup>As our ruling is dispositive, we need not address the remaining argument against disclosure.

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](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,



Nicholas A. Ybarra  
Assistant Attorney General  
Open Records Division

NAY/bw

Ref: ID# 623014

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

51 Third Parties  
(w/o enclosures)