OFFICE OF THE ATTORNEY GENERAL · STATE OF TEXAS
JOHN CORNYN

September 20, 2001

Ms. Priscilla Lozano
The University of Texas System
201 West 7th Street
Austin, Texas 78701-2981

OR2001-4233

Dear Ms. Lozano:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 152205.

The University of Texas System (the "system") received a document titled "Albert Miranda's Requests for Disclosure, Interrogatories, Requests for Production and Admissions" concerning various items of information relating to the demotion of a specified system employee, several personnel files of system employees, and various system policies and procedures. You indicate that you intend to release some responsive information. However, you claim that the submitted information is excepted from disclosure pursuant to sections 552.101, 552.102, 552.103, 552.107, 552.108, 552.111, 552.115, 552.117, and 552.130 of the Government Code. We have considered your arguments and have reviewed the submitted information.

We note that section 552.0055 of the Government Code provides that "[a] subpoena duces tecum or a request for discovery that is issued in compliance with a statute or a rule of civil or criminal procedure is not considered to be a request for information under this chapter." Gov't Code § 552.0055. You state that the requests noted in the document that you received "were made under discovery procedures provided for in [the] Texas Rules of Civil Procedure for conducting discovery in civil litigation and include requests for disclosure pursuant to Texas Rules of Civil Procedure 194, and Interrogatories, Requests for Production and Requests for Admissions which are permissible forms of discovery under Texas Rules of Civil Procedure 192." Based on your representations, we conclude that the system did not

receive a written request for public information that triggered the Public Information Act. Thus, this office is not authorized to rule on the submitted information.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

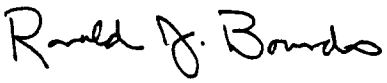
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for

contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Ronald J. Bounds
Assistant Attorney General
Open Records Division

RJB/seg

Ref: ID# 152205

Enc. Submitted documents

cc: Mr. Fred O. Haiman
Peticolas, Shapleigh, Brandys & Kern
701 North Vrain Street
El Paso, Texas 79902
(w/o enclosures)