



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 30, 2007

Mr. Scott A. Kelley
Deputy General Counsel
Texas A & M University System
A&M System Building, Suite 2079
200 Technology Way
College Station, Texas 77845-3424

OR2007-11265

Dear Mr. Kelley:

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# 288310.

The Texas A&M University System (the "university") received a request for information related to inappropriate conduct or disciplinary actions in which the requestor was the subject of the action, the personnel file of the requestor, a specified survey, and documents, calendars, and communications pertaining to specified individuals during a certain time period. You state that the university is releasing some of the responsive correspondence, information related to inappropriate conduct or disciplinary actions, and the requestor's personnel file. You claim that portions of Exhibits D and E are not public information subject to the Act. You also claim that the remaining requested information is excepted from disclosure under sections 552.107, 552.111, 552.116, and 552.117 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.¹

¹We assume that the "representative sample" of records submitted to this office in Exhibits D and E is truly representative of these 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.

You state that the information at issue is identical to information that was the subject of a prior ruling of this office. In Open Records Letter No. 2007-10814 (2007), we concluded that the information you have marked in Exhibits D and E does not constitute “public information” that is subject to the Act. We also concluded that the university must withhold medical information under section 552.101 in conjunction with common-law privacy. We further concluded that the information in Exhibit B is protected by the attorney-client privilege and may be withheld under section 552.107, and that the information in Exhibit C consists of audit working papers that may be withheld under section 552.116. Finally, we concluded that the university must withhold personal information in Exhibits D and E under section 552.117. You indicate that the pertinent facts and circumstances have not changed since the issuance of that prior ruling.² Accordingly, the university may continue to rely on our prior ruling with respect to the requested information. *See* Gov’t Code § 552.301(f); ORD 673. As our ruling is dispositive, we need not address your arguments against disclosure.

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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the

²The four criteria for this type of “previous determination” are 1) the records or information at issue are precisely the same records or information that were previously submitted to this office pursuant to section 552.301(e)(1)(D) of the Government Code; 2) the governmental body which received the request for the records or information is the same governmental body that previously requested and received a ruling from the attorney general; 3) the attorney general’s prior ruling concluded that the precise records or information are or are not excepted from disclosure under the Act; and 4) the law, facts, and circumstances on which the prior attorney general ruling was based have not changed since the issuance of the ruling. *See* Open Records Decision No. 673 (2001).

Government Code. If the governmental body fails to do one of these things, 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 Dep't of Pub. 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 Office of the Attorney General 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,



Loan Hong-Turney
Assistant Attorney General
Open Records Division

LH/jb

Ref: ID# 288310

Enc. Submitted documents

c: Mr. James A. Fletcher, II
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College Station, Texas 77845
(w/o enclosures)