



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 9, 2010

Mr. R. Brooks Moore
Assistant General Counsel
Texas A&M University System
Office of the General Counsel
200 Technology Way, Suite 2079
College Station, Texas 77845-3424

OR2010-13678

Dear Mr. Moore:

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# 392804 (TAMU 10-321).

Texas A&M University (the "university") received a request for all written correspondence from May 1, 2010, to the date of the request "to and/or from the university athletic director, business/finance directors, president, chancellor, head football coach, and head basketball coach regarding membership realignment of the Big 12, Big Ten, or Pac 10 conferences." You indicate the university will release some of the responsive information to the requestor. You claim that the submitted information is excepted from disclosure under sections 552.104, 552.107, and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information. We have also considered comments submitted by a representative of the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, you indicate that some of the requested information also was responsive to several previous requests for information. Accordingly, some of the requested information may have been the subject of previous requests for rulings, in response to which this office issued Open Records Letter Nos. 2010-12031 (2010), 2010-12894 (2010), 2010-13007 (2010), and 2010-13010 (2010). We have no indication of any change in the law, facts, or circumstances on which these prior rulings were based. Accordingly, with regard to any information

responsive to the instant request that was previously requested and ruled on by this office, we conclude the university must continue to withhold or release that information in accordance with Open Records Letter Nos. 2010-12031, 2010-12894, 2010-13007, and 2010-13010. *See* Open Records Decision No. 673 at 6-7 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

Next, we note the submitted information is responsive to a previous request for information received by the university which asked for all documents regarding conference expansion and/or realignment dated between May 24, 2010 and the date of the request, June 15, 2010. With regard to that previous request, the university requested a ruling from this office but did not submit any documents. In response to that request for a ruling, this office issued Open Records Letter No. 2010-13007, which concluded that all of the requested information must be released because the university failed to submit such information to our office in accordance with section 552.301(e) of the Government Code. You now seek to withhold the submitted information, which we find is responsive to the previous request, under sections 552.104, 552.107, and 552.111 of the Government Code. Section 552.007 of the Government Code provides if a governmental body voluntarily releases information to any member of the public, the governmental body may not withhold such information from further disclosure unless its public release is expressly prohibited by law or the information is confidential by law. *See* Gov't Code § 552.007. Accordingly, pursuant to section 552.007, the university may not now withhold the previously released information unless its release is expressly prohibited by law or the information is confidential by law. As noted above, you now raise sections 552.104, 552.107, and 552.111 for the submitted information we previously ordered released. Sections 552.104, 552.107, and 552.111 do not prohibit the release of information or make information confidential. *See* Open Records Decision Nos. 677 at 10 (2002) (attorney work product privilege under section 552.111 may be waived), 676 at 10-11 (2002) (attorney-client privilege under Gov't Code § 552.107(1) may be waived), 665 at 2 n.5 (discretionary exceptions generally), 663 at 5 (1999) (untimely request for decision resulted in waiver of discretionary exceptions), 592 at 8 (1991) (statutory predecessor to Gov't Code § 552.104 subject to waiver), 470 at 7 (1987) (statutory predecessor to Gov't Code § 552.111 subject to waiver). Thus, we do not address your claims under sections 552.104, 552.107, and 552.111 of the Government Code. Instead, we conclude the university must release the submitted information in accordance with Open Records Letter No. 2010-13007. *See* ORD 673 at 6-7.

In summary, to the extent the information responsive to the instant request was previously requested and ruled on by this office, we conclude the university must continue to withhold or release that information in accordance with Open Records Letter Nos. 2010-12031, 2010-12894, 2010-13007, and 2010-13010. The university must release the submitted information in accordance with Open Records Letter No. 2010-13007.

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Laura Ream Lemus
Assistant Attorney General
Open Records Division

LRL/eb

Ref: ID# 392804

Enc. Submitted documents

c: Requestor
(w/o enclosures)