



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 12, 2013

Ms. Ruth E. Shapiro
Senior Assistant General Counsel
Office of the General Counsel
University of Houston System
311 E. Cullen Building
Houston, Texas 77204-2028

OR2013-05949

Dear Ms. Shapiro:

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# 483810.

The University of Houston (the "university") received a request for all information related to a specified complaint filed by the requestor. You state you have released some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101, 552.103, 552.107, and 552.111 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

We note the information we have marked is not responsive to the instant request because it was created after the university received the request. This ruling does not address the public availability of non-responsive information, and the university is not required to release non-responsive information in response to this request.

¹Although you raise section 552.101 of the Government Code in conjunction with Rule 503 of the Texas Rules of Evidence, this office has concluded section 552.101 does not encompass discovery privileges. See Open Records Decision Nos. 677 (2002), 676 at 1-2 (2002). The proper exception to raise when asserting the attorney client privilege for information not subject to section 552.022 of the Government Code is section 552.107 of the Government Code. See ORDs 677, 676.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. Section 552.101 of the Government Code encompasses information protected by other statutes. Section 51.971 of the Education Code provides in relevant part the following:

(a) In this section:

(1) “Compliance program” means a process to assess and ensure compliance by the officers and employees of an institution of higher education with applicable laws, rules, regulations, and policies, including matters of:

(A) ethics and standards of conduct;

(B) financial reporting;

(C) internal accounting controls; or

(D) auditing.

(2) “Institution of higher education” has the meaning assigned by Section 61.003.

...

(e) Information is excepted from disclosure under [the Act] if it is collected or produced:

(1) in a compliance program investigation and releasing the information would interfere with an ongoing compliance investigation[.]

Educ. Code § 51.971(a), (e)(1). You inform us the university is an institution of higher education for purposes of section 61.003 of the Education Code. *See id.* § 51.971(a)(2). You state the submitted responsive information consists of an ongoing compliance investigation of allegations of discrimination by the university and a university employee. You also state the investigation was initiated in response to allegations made against a university employee and in order to assess and ensure compliance with all applicable laws, rules, regulations, and policies. Based on your representations, we find the responsive information relates to an investigation conducted under the university’s compliance program. *See id.* § 51.971(a)(1). You assert release of the responsive information would interfere with that investigation. Accordingly, we conclude the university must withhold the submitted responsive information

under section 552.101 of the Government Code in conjunction with section 51.971(e)(1) of the Education Code. As our ruling is dispositive, we need not address your remaining arguments against disclosure.

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,



Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/tch

Ref: ID# 483810

Enc. Submitted documents

c: Requestor
(w/o enclosures)