



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 23, 2013

Ms. Neera Chatterjee  
Public Information Coordinator  
The University of Texas System  
201 West Seventh Street  
Austin, Texas 78701

OR2013-18476

Dear Ms. Chatterjee:

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# 503481 (UT OGC# 151384).

The University of Texas at San Antonio (the "university") received a request for all allegations made by or against a named individual, and the final outcome of any investigations into those allegations.<sup>1</sup> You claim the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>2</sup>

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<sup>1</sup>You state the university sought and received clarification of the request for information. *See* Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

<sup>2</sup>We assume that 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 that those records contain substantially different types of information than that submitted to this office.

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. This section 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.

...

(c) The following are confidential:

(1) information that directly or indirectly reveals the identity of an individual who made a report to the compliance program office of an institution of higher education, sought guidance from the office, or participated in an investigation conducted under the compliance program; and

(2) information that directly or indirectly reveals the identity of an individual as a person who is alleged to have or may have planned, initiated, or participated in activities that are the subject of a report made to the compliance program office of an institution of higher education if, after completing an investigation, the office determines the report to be unsubstantiated or without merit.

(d) Subsection (c) does not apply to information related to an individual who consents to disclosure of the information.

Educ. Code § 51.971(a), (c)-(d). 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 inform us the information at issue consists of completed compliance investigations undertaken by the university's Office of Equal Employment Services. You state these investigations were conducted in response to allegations against university employees and were initiated in order to assess and ensure compliance with all applicable laws, rules, regulations, and policies. Based on your representations, we find the information at issue relates to investigations conducted under the university's compliance program. *See id.* § 51.971(a)(1).

You state the information at issue relates to closed compliance matters. You state the allegations in two of the investigations at issue were unsubstantiated, while the allegations in the third investigation were substantiated. You claim, and have provided a statement from the investigator of the allegations at issue stating, the individuals who participated in and provided information for the investigations work together in a small group. You inform us the requestor, as a participant in the group and as a party to many of the events at issue, has specific knowledge of the events at issue and of each individual's involvement in those events. You claim release of the information at issue would directly or indirectly reveal the identities of those individuals who participated in the investigations or provided information because the requestor knows each person's involvement in the events at issue. You inform us none of these individuals have consented to release of their information. Based on these factors, you seek to withhold the information at issue in its entirety. Upon review, we agree release of most of the information at issue would directly or indirectly identify individuals as complainants or as participants in the compliance program investigations, or an individual who was alleged to have participated in the activities subject to the complaints. *See id.* § 51.971(c). However, we note the requestor is one of the individuals whose information is subject to section 51.971(c). Thus, pursuant to section 51.971(d), we find the requestor has a right of access to information pertaining solely to himself, and such information, which we have marked, may not be withheld from him under section 51.971(c). *Cf.* Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Further, we find a portion of the submitted information does not identify an individual who made a report to, sought guidance from, or participated in the compliance program investigations, or an individual who was alleged to have participated in the activities subject to the complaints for the purposes of section 51.971(c). Consequently, you have failed to show how this information is confidential under section 51.971 of the Education Code, and the university may not withhold this information, which we have marked for release, under section 552.101 on that basis. Therefore, with the exception of the information we have marked for release, the university must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 51.971 of the Education Code.

Section 552.117(a)(1) excepts from disclosure the home addresses and telephone numbers, emergency contact information, social security numbers, and family member information of

current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024 of the Government Code.<sup>3</sup> *See* Gov't Code § 552.117(a)(1). Section 552.117 is also applicable to cellular telephone numbers, provided the cellular telephone service is not paid for by a governmental body. *See* Open Records Decision No. 506 at 5-6 (1988) (statutory predecessor to section 552.117 of the Government Code not applicable to cellular telephone numbers provided and paid for by governmental body and intended for official use). Whether a particular item of information is protected by section 552.117(a)(1) must be determined at the time of the governmental body's receipt of the request for the information. *See* Open Records Decision No. 530 at 5 (1989). Thus, information may only be withheld under section 552.117(a)(1) on behalf of a current or former official or employee who made a request for confidentiality under section 552.024 prior to the date of the governmental body's receipt of the request for the information. Accordingly, if the individuals whose cellular telephone numbers we have marked timely requested confidentiality under section 552.024 of the Government Code and the cellular telephone service is not paid for by a governmental body, the university must withhold the information we have marked under section 552.117(a)(1) of the Government Code. The university may not withhold the information at issue under section 552.117 if the individuals did not make a timely election to keep their information confidential or if the cellular telephone service is paid for by a governmental body.

In summary, with the exception of the information we have marked for release, the university must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 51.971 of the Education Code. If the individuals whose cellular telephone numbers we have marked timely requested confidentiality under section 552.024 of the Government Code and the cellular telephone service is not paid for by a governmental body, the university must withhold the information we have marked under section 552.117(a)(1) of the Government Code. The remaining information must be released.<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.

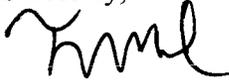
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<sup>3</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

<sup>4</sup>We note the information being released in this instance includes information that is confidential with respect to the general public. Therefore, if the university receives another request for this information from a different requestor, the university must again seek a ruling from this office.

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,



Tim Neal  
Assistant Attorney General  
Open Records Division

TN/dls

Ref: ID# 503481

Enc. Submitted documents

c: Requestor  
(w/o enclosures)