



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 30, 2014

Ms. Neera Chatterjee
Office of the General Counsel
The University of Texas System
201 West Seventh Street
Austin, Texas 78701

OR2014-01879

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# 512567 (OGC# 153105).

The University of Texas at Arlington (the "university") received a request for nineteen categories of information relating to three named employees, Sigma Phi Epsilon, and the disciplinary histories of Sigma Chi, Alpha Tau Omega, Pi Kappa Phi, and Phi Kappa Alpha. You state the university is releasing some of the requested information. You state the university has redacted information subject to section 552.117 of the Government Code as permitted by section 552.024(c) of the Government Code.¹ Additionally, you state the university will redact information pursuant to the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g(a).² See Gov't Code §§ 552.026 (incorporating FERPA into

¹Section 552.024(c)(2) of the Government Code authorizes a governmental body to redact information protected by section 552.117(a)(1) of the Government Code without the necessity of requesting a decision under the Act if the current or former employee or official to whom the information pertains timely chooses not to allow public access to the information. See Gov't Code § 552.024(c)(2).

²The United States Department of Education Family Policy Compliance Office (the "DOE") has informed this office FERPA does not permit state and local educational authorities to disclose to this office, without parental or an adult student's consent, unredacted, personally identifiable information contained in education records for the purpose of our review in the open records ruling process under the Act. The DOE has determined FERPA determinations must be made by the educational authority in possession of the educational records. We have posted a copy of the letter from the DOE on the Attorney General's website at <http://www.oag.state.tx.us/open/20060725usdoe.pdf>.

the Act), .114 (excepting from disclosure “student records”); Open Records Decision No. 539 (1990) (determining the same analysis applies under section 552.114 of the Government Code and FERPA). You claim the submitted information is excepted from disclosure under sections 552.101, 552.107, and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.³

Initially, we note the information we have marked is not responsive to the instant request for information because it was created after the time period specified in 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.⁴

Next, you state the responsive information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2013-21076 (2013). In that ruling, we determined the university (1) may withhold certain information under section 552.107(1) of the Government Code; (2) may withhold certain information under section 552.111 of the Government Code; (3) must withhold certain cellular telephone numbers under section 552.117(a)(1) of the Government Code if the employees whose cellular telephone numbers were at issue timely elected to keep these numbers confidential pursuant to section 552.024 of the Government Code and the cellular services are not paid for by a governmental body; and (4) must release the remaining information. There is no indication the law, facts, and circumstances on which the prior ruling was based have changed. Accordingly, we conclude the university must continue to rely on Open Records Letter No. 2013-21076 as a previous determination and withhold or release the responsive information in accordance with that ruling. *See* Open Records Decision No. 673 (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 prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes information is or is not excepted from 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.texasattorneygeneral.gov/open/>

³We assume 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 those records contain substantially different types of information than that submitted to this office.

⁴As our determination is dispositive with respect to this information, we need not address your argument under section 552.101 of the Government Code in conjunction with common-law privacy.

[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,



David L. Wheelus
Assistant Attorney General
Open Records Division

DLW/akg

Ref: ID# 512567

Enc. Submitted documents

c: Requestor
(w/o enclosures)