



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 19, 2014

Mr. R. Brooks Moore  
Managing Counsel, Governance  
Office of General Counsel  
The Texas A&M University System  
301 Tarrow Street, 6th Floor  
Austin, Texas 77840-7896

OR2014-16692

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# 540013 (Ref. No. AR 14-012).

The Texas A&M AgriLife Extension Service (the "service") received a request for information related to a specified complaint and the requestor's annual evaluations. You state you have released the requested evaluations to the requestor. You claim portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

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 pertinent part:

(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). We understand the service 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 information pertains to allegations of policy and standards of conduct violations reported to and investigated by service administrators who are part of the service's compliance program. Based on your representations, we find this information relates to an investigation conducted under the service's compliance program. *See id.* § 51.971(a)(1).

You seek to withhold the information you have marked pursuant to section 51.971(c) of the Education Code. You state the information at issue relates to a closed compliance matter which resulted in the final determination that the allegations were without merit. You assert release of the marked information would identify the individuals who participated in the compliance program investigation and those who were the subjects of the complaint. Additionally, you do not indicate any of the relevant individuals have consented to the disclosure of their identifying information. Upon review, we agree release of some of the

information at issue would identify individuals who participated in the investigation of the complaint and the identities of the individuals who were the subjects of the unsubstantiated complaint. *See id.* § 51.971(c). However, we find a portion of the information at issue 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 service 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 service must withhold the information you have marked 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>1</sup> *See Gov't Code* § 552.117(a)(1). 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. Therefore, to the extent the former employee at issue timely requested confidentiality pursuant to section 552.024 of the Government Code, the service must withhold the information we have marked under section 552.117(a)(1) of the Government Code. Conversely, to the extent the former employee at issue did not timely request confidentiality under section 552.024, the service may not withhold this information under section 552.117(a)(1) of the Government Code.

In summary, with the exception of the information we have marked for release, the service must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 51.971 of the Education Code. To the extent the former employee at issue timely requested confidentiality pursuant to section 552.024 of the Government Code, the service must withhold the information we have marked under section 552.117(a)(1) of the Government Code. The service must release the remaining information.<sup>2</sup>

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<sup>1</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>2</sup>Because this requestor has a special right of access to some of the information being released, if the service receives another request for this same information from a different requestor, the service must again seek a ruling from this office. *See Educ. Code* § 51.971(d).

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/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,

A handwritten signature in black ink, appearing to read 'Tim Neal', written in a cursive style.

Tim Neal  
Assistant Attorney General  
Open Records Division

TN/bhf

Ref: ID# 540013

Enc. Submitted documents

c: Requestor  
(w/o enclosures)