



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 24, 2014

Ms. Audra Gonzalez Welter  
Office of General Counsel  
The University of Texas System  
201 West Seventh Street  
Austin, Texas 78701-2902

OR2014-17021

Dear Ms. Welter:

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# 537181 (OGC Nos. 156750, 156757, and 157117).

The University of Texas System (the "system") received three requests for all communications among the system's chancellor and regents regarding the search for a new chancellor during a specified period of time. You state the system will release some of the requested information. You claim portions of the submitted information are excepted from disclosure under sections 552.123 and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

Section 552.123 of the Government Code excepts from required public disclosure:

The name of an applicant for the position of chief executive officer of an institution of higher education, and other information that would tend to identify the applicant, . . . except that the governing body of the institution

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<sup>1</sup>We 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.

must give public notice of the name or names of the finalists being considered for the position at least 21 days before the date of the meeting at which final action or vote is to be taken on the employment of the person.

Gov't Code § 552.123. Section 552.123 permits the withholding of *any* identifying information about the candidates, not just their names. Open Records Decision No. 540 (1990) (construing statutory predecessor to section 552.123). Examples of information identifying individuals might include, but are not limited to, resumes, professional qualifications, membership in professional organizations, dates of birth, current positions, publications, letters of recommendation, or any other information that can be uniquely associated with a particular applicant. *Id.* at 4. In addition, the exception protects the identities of all persons being considered for the position of university chief executive officer, whether they are nominated or apply on their own initiative. *Id.* at 5.

The system is an “institution of higher education” as defined by section 61.003(8) of the Texas Education Code. *See* Educ. Code § 61.003(6), (8). Additionally, you state the chancellor is the “chief executive officer” of the system. The submitted information contains the identifying information of a candidate for the position of chancellor of the system. We understand the system will give public notice of the name or names of the finalists being considered for the position at least 21 days before the date the final vote on the employment of the person is to be taken. Based on your representations and our review of the information at issue, we conclude the system may withhold the information we have marked under section 552.123 of the Government Code. However, we find you have failed to demonstrate how the remaining information at issue identifies or tends to identify particular candidates. Thus, the system may not withhold the remaining information pursuant to section 552.123 of the Government Code.

Section 552.137 of the Government Code excepts from disclosure “an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body” unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). Gov't Code § 552.137(a)-(c). The e-mail addresses at issue are not within the scope of section 552.137(c). Accordingly, the system must withhold the e-mail addresses you have marked under section 552.137 of the Government Code, unless the owners affirmatively consent to their release.

In summary, the system may withhold the information we have marked under section 552.123 of the Government Code. The system must withhold the e-mail addresses you have marked under section 552.137 of the Government Code, unless the owners affirmatively consent to their release. The system must release the remaining information.

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 cursive script that reads "Megan G. Holloway".

Megan G. Holloway  
Assistant Attorney General  
Open Records Division

MGH/akg

Ref: ID# 537181

Enc. Submitted documents

c: 3 Requestors  
(w/o enclosures)