



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 7, 2014

Mr. R. Brooks Moore  
Managing Counsel, Governance  
The Texas A&M University System  
301 Tarrow Street, Sixth Floor  
College Station, Texas 77840-7896

OR2014-17896

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# 538608.

The Texas A&M University-San Antonio (the "university") received a request for any complaints filed with the university involving a named individual and copies of any audits conducted by the Texas A&M University System about the university since a specific date. You state you will release some information. 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 representative sample of information.<sup>1</sup>

Initially, you state some of the requested information was the subject of a previous ruling by this office. In Open Records Letter No. 2013-15527 (2013), this office ruled that the university (1) must withhold Exhibit B and the information we marked under section 552.101 of the Government Code in conjunction with section 51.971 of the Education Code; (2) must withhold the e-mail address we marked under section 552.137, unless the owner consents to

---

<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.

public disclosure; and (3) must release the remaining information. As we have no indication that the law, facts, and circumstances on which the prior ruling was based have changed, the university must, as you acknowledge, continue to rely on the prior ruling as a previous determination and withhold or release the requested information we previously ruled on in accordance with Open Records Letter No. 2013-15527. *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 that information is or is not excepted from disclosure). However, because you inform us the submitted information is not encompassed by the previous decision, we will address your arguments against its disclosure.

Section 552.101 of the Government Code exempts 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 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 information pertains to allegations of policy and standards of conduct violations reported to and investigated by university administrators who are part of the university's compliance program. Based on your representations, we find this information relates to an investigation conducted under the university's compliance program. *See id.* § 51.971(a)(1).

You state release of the information you marked would directly or indirectly reveal the identity of those individuals making a complaint, seeking guidance from, or participating in a compliance program investigation, or alleged to have participated in the activities subject to the complaint. You inform us none of these individuals have consented to release of their information. Further, you state portions of the compliance program investigation were found to be unsubstantiated or without merit. Upon review, we find release of most of the information you have marked would directly or indirectly identify individuals as complainants or as participants in the compliance program investigation, or as alleged participants in the activities subject to the complaint. Thus, the university must withhold this information, as well as the additional information we have marked, under section 552.101 of the Government Code in conjunction with section 51.971 of the Education Code. However, we find you have failed to demonstrate how the remaining information at issue which we marked for release would directly or indirectly identify individuals as complainants or as participants in the compliance program investigation, or as alleged participants in the activities subject to the complaint. Accordingly, the university may not withhold the information we marked for release under section 552.101 in conjunction with section 51.971(c) of the Education Code. The remaining information must be released.

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,



Rahat Huq  
Assistant Attorney General  
Open Records Division

RSH/dls

Ref: ID# 538608

Enc. Submitted documents

c: Requestor  
(w/o enclosures)