



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 28, 2014

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

OR2014-19389

Dear Ms. 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# 541341 (ORR# AR 14-013).

Texas A&M AgriLife Research ("TAMALR") received a request for the final report pertaining to a specified complaint. You claim some of the submitted information is 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 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). We understand TAMALR 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 submitted information relates to an investigation of allegations of policy and standard of conduct violations. You state the investigation was undertaken by administrators who are part of TAMALR's compliance program. Based on your representations, we find this information relates to an investigation conducted under TAMALR's compliance program. *See id.* § 51.971(a)(1).

You argue the information you have marked is confidential pursuant to section 51.971(c) of the Education Code. You indicate the investigation at issue is concluded. You state after the complaint was investigated, all but one of the claims at issue were determined to be without merit and thus were unsubstantiated. Thus, you argue the information you have marked

would directly or indirectly reveal the identities of individuals who participated in the investigation and the identity of an individual who was the subject of the complaints. *See id.* § 51.971(c). Subsection (c) does not apply to information related to an individual who consents to disclosure of the information. *Id.* § 51.971(d). We understand none of these individuals at issue have consented to release of their information. Upon review, we agree release of most of the information you marked would directly or indirectly identify individuals as participants in or the subject of the compliance program investigation. However, a portion of the information you marked does not directly or indirectly identify any individual. This information, which we marked for release, is not made confidential by section 51.971 of the Education Code. Accordingly, with the exception of the information we marked for release, TAMALR must withhold the information you marked under section 552.101 of the Government Code in conjunction with section 51.971(c) of the Education Code. TAMALR must release the remaining information to this requestor.<sup>1</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.

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,



Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/som

---

<sup>1</sup>We note the requestor has a right of access to some of the information being released in this instance. *See Gov't Code* § 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Thus, if TAMALR receives another request for this same information from a different requestor, TAMALR must again seek a ruling from this office.

Ref: ID# 541341

Enc. Submitted documents

c: Requestor  
(w/o enclosures)