



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 10, 2015

Mr. Kyle St. Clair  
Assistant General Counsel  
University of North Texas System  
1901 Main Street, Suite 216  
Dallas, Texas 75201

OR2015-04567

Dear Mr. St. Clair:

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# 558371 (UNTHSC PIR# 001384).

The University of North Texas Health Science Center (the "university") received a request for a specified investigation report. You claim the requested information is excepted from disclosure under section 552.101 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>2</sup>

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<sup>1</sup>We note the university failed to comply with its procedural obligations under the Act. *See* Gov't Code § 552.301(b), (e). However, because section 552.101 of the Government Code can provide a compelling reason to withhold information, we will address your argument under this section for the information at issue. *Id.* § 552.302.

<sup>2</sup>We assume that 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 that those records contain substantially different types of information than that submitted to this office.

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, including section 51.971 of the Education Code. Section 51.971 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). You inform us 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 investigation at issue was undertaken by the university's compliance program in order to assess and ensure compliance with all applicable laws, policies, ethics, and standards of conduct. Based on your representations, we find the submitted information relates to an investigation conducted under the university's compliance program for the purposes of section 51.971. *See id.* § 51.971(a)(1).

You claim the information you have marked directly or indirectly identifies the individuals who made the report to, sought guidance from, or participated in the compliance program investigation, or allegedly participated in the activities which were the subject of the investigation. You state the investigation at issue concluded in a determination the complaint was unsubstantiated, and none of the individuals at issue have consented to release of their information. However, as you acknowledge, the requestor is the complainant at issue. Thus, pursuant to section 51.971(d), we find the requestor has a right of access to his information and it may not be withheld under section 51.971(c)(1). *Cf.* Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Upon review, we find the information we have marked directly or indirectly identifies the individuals who made the report to, sought guidance from, or participated in the compliance program investigation, or allegedly participated in the activities which were the subject of the investigation. Accordingly, the university must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 51.971(c) of the Education Code. However, you have failed to demonstrate how any of the remaining information directly or indirectly identifies the individuals who made the report to, sought guidance from, or participated in the compliance program investigation, or allegedly participated in the activities which were the subject of the investigation. Therefore, the university may not withhold any of the remaining information under section 552.101 on that basis. As no further exceptions to disclosure are raised, the remaining information must be released.<sup>3</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.

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<sup>3</sup>Because the requestor has a special right of access to some of the information being released, the university should again seek a decision from this office if it receives another request for this particular information from a different requestor.

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 "B. Berger", written over the typed name.

Brian E. Berger  
Assistant Attorney General  
Open Records Division

BB/akg

Ref: ID# 558371

Enc. Submitted documents

c: Requestor  
(w/o enclosures)