



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 6, 2015

Ms. Claudene Marshall
Assistant General Counsel
The Texas A&M University System
301 Tarrow Street, Sixth Floor
College Station, Texas 77840-7896

OR2015-06383

Dear Ms. Marshall:

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# 558769 (Request #15-010).

Texas A&M University-Texarkana (the "university") received a request for five categories of information: (1) all submissions from a specified time period by the College of Business (the "college") to obtain a specified accreditation, (2) the names of persons applying for tenure to the college during a specified time period, (3) applications for tenure to the college from a specified time period, (4) any complaints from a specified time period alleging discrimination, retaliation, or harassment by a named individual, and (5) any investigations from a specified time period made into complaints alleging discrimination, retaliation, or harassment by the named individual. 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.¹ We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (permitting interested third party to submit to attorney general reasons why requested information should or should not be released).

¹We 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.

Initially, we note you have not submitted information responsive to the first, second, and third categories of the request. To the extent any information responsive to these portions of the request existed on the date the university received the request, we assume the university has released it. If the university has not released any such information, it must do so at this time. *See id.* §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *See 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 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 standard of conduct and ethics violations reported to and investigated by university administrators who are part of the university's compliance program. Based on your representations and our review, we find the submitted information relates to investigations conducted under the university's compliance program. *See id.* § 51.971(a)(1).

We understand the submitted information pertains to completed compliance investigations, which you state concluded in a determination that the allegations in the complaints were without merit. You further state the information you have marked reveals the identities of the individuals who participated in the investigations or the identity of the individual who was the subject of the unsubstantiated complaints. We note 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 the individuals whose information you have marked have consented to the release of their information. Upon review, we agree the release of some of the information you have marked would directly or indirectly identify individuals who participated in compliance investigations or the individual alleged to have participated in activities that were the subject of the unsubstantiated allegations. *See id.* § 51.971(c). However, the remaining information you have marked does not directly or indirectly identify any individual. This information, which we have marked for release, is not made confidential by section 51.971 of the Education Code. Accordingly, with the exception of the information we have marked for release, the university must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 51.971(c) of the Education Code. As you raise no other exceptions to disclosure, the university 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](#), 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 "Alley Latham".

Alley Latham
Assistant Attorney General
Open Records Division

AKL/dls

Ref: ID# 558769

Enc. Submitted documents

c: Requestor
(w/o enclosures)