



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 7, 2015

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

OR2015-06527

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# 560471 (Ref. No. SO-15-012).

The Texas A&M University System (the "system") received a request for information pertaining to complaints against a named individual. You state you do not have information responsive to some portions of the request.¹ You claim 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.

Initially, you state some of the requested information was the subject of previous requests for rulings, as a result of which this office issued Open Records Letter Nos. 2015-04220 (2015), 2015-01631 (2015), and 2014-12238 (2014). In Open Records Letter No. 2015-04220, we determined 1) the system must continue to rely on Open Records Letter No. 2015-01631 as a previous determination and withhold the information at issue in accordance with that ruling, 2) the system must withhold some information under section 552.101 of the Government Code in conjunction with section 51.971(e)(2) of the Education Code, and 3) the system may withhold some information under section 552.107(1) of the Government Code. In Open Records Letter Nos. 2015-01631 and 2014-12238, we determined the system must withhold the information at issue under section 552.101 of

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

the Government Code in conjunction with section 51.971(e)(2) of the Education Code. We have no indication the law, facts, or circumstances on which the prior rulings were based have changed. Thus, the system must continue to rely on Open Records Letter Nos. 2015-04220, 2015-01631, and 2014-12238 as previous determinations and withhold the information at issue in accordance with those rulings. *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 a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

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 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.

...

(e) Information is excepted from disclosure under [the Act] if it is collected or produced:

...

(2) by a systemwide compliance office for the purpose of reviewing compliance processes at a component institution of higher education of a university system.

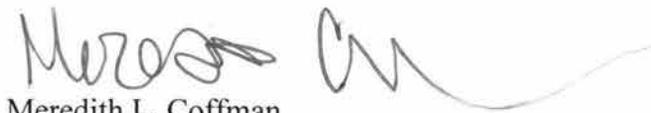
Educ. Code § 51.971(a), (e)(2). We understand the system is an institution of higher education for purposes of section 61.003 of the Education Code. *See id.* § 51.971(a)(2). You state Exhibit B-1 and the information you have marked in Exhibit B-2 concern allegations of breaches of standards of conduct and ethics. In response to the allegations, you state the system's Internal Audit Department, as part of the system's compliance program, initiated an internal review to assess and ensure employees' compliance with applicable laws, rules, regulations, and policies. You explain the information at issue was collected for the purpose of reviewing compliance processes at Tarleton State University, a component of the system. Based on your representations and our review, we conclude the system must withhold Exhibit B-1 and the information you have marked in Exhibit B-2 under section 552.101 of the Government Code in conjunction with section 51.971(e)(2) of the Education Code.

In summary, the system must continue to rely on Open Records Letter Nos. 2015-04220, 2015-01631, and 2014-12238 as previous determinations and withhold the information at issue in accordance with those rulings. The system must withhold Exhibit B-1 and the information you have marked in Exhibit B-2 under section 552.101 of the Government Code in conjunction with section 51.971(e)(2) of the Education Code. 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, 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,



Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/dls

Ref: ID# 560471

Enc. Submitted documents

c: Requestor
(w/o enclosures)