



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 14, 2015

Ms. Claudene Marshall  
Assistant General Counsel  
Office of the General Counsel  
The Texas A&M University System  
301 Tarrow Street, 6th Floor  
College Station, Texas 77840-7896

OR2015-07184

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# 559854 (PIR No. 15-070).

Texas A&M University (the "university") received a request for a copy of the report resulting from specified ethics complaints involving the requestor and a named individual. We understand the university has redacted some information pursuant to the Family Educational Rights and Privacy Act ("FERPA"), section 1232g of title 20 of the United States Code.<sup>1</sup>

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<sup>1</sup>The United States Department of Education Family Policy Compliance Office (the "DOE") has informed this office FERPA does not permit state and local educational authorities to disclose to this office, without parental consent, unredacted, personally identifiable information contained in education records for the purpose of our review in the open records ruling process under the Act. The DOE has determined FERPA determinations must be made by the educational authority in possession of the education records. We have posted a copy of the letter from the DOE to this office on the Attorney General's website: <http://www.oag.state.tx.us/open/20060725usdoe.pdf>.

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.

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 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 standard 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 the submitted information consists of a completed compliance investigation, which concluded in a determination that certain allegations concerning one of the subjects of the complaints were unsubstantiated. You further state releasing the information you have marked would directly or indirectly reveal the identity of those individuals participating in a compliance program investigation or alleged to have participated in the activities subject to the unsubstantiated complaint. 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 release of their information. Upon review, we agree release of most of the information you marked, including the additional information we have 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, the university must withhold the information you and we marked under section 552.101 of the Government Code in conjunction with section 51.971(c) of the Education Code. The university must release the remaining information to this requestor.<sup>2</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>2</sup>Because this requestor has a special right of access to some of the information being released, if the university receives another request for this same information from a different requestor, the university must again seek a ruling from this office. *See* Educ. Code § 51.971(d).

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 cursive script that reads "Britni Fabian".

Britni Fabian  
Assistant Attorney General  
Open Records Division

BF/bhf

Ref: ID# 559854

Enc. Submitted documents

c: Requestor  
(w/o enclosures)