



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 6, 2015

Mr. Renaldo L. Stowers  
Senior Associate General Counsel  
Office of General Counsel  
The University of North Texas System  
1155 Union Circle, #310907  
Denton, Texas 76203

OR2015-20885

Dear Mr. Stowers:

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# 580293 (UNT PIR No. 003348).

The University of North Texas System Office of General Counsel (the "system") received a request for information related to the system's emergency response plan in the event of a specified type of emergency. You state you will release some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.111 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>2</sup> We have also received and considered comments received from the requestor under section 552.304 of the Government Code, as well as your response to our letter of September 16, 2015, seeking additional

---

<sup>1</sup>We understand the system withdrew its argument under section 552.110 of the Government Code. *See* Gov't Code § 552.301, .302. Accordingly, we do not address the requestor's arguments related to this raised exception.

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

information required for our decision under section 552.303 of the Government Code.<sup>3</sup> *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); *see also id.* § 552.303.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. Section 552.101 encompasses information protected by other statutes, such as section 51.217 of the Education Code, which provides, in part:

(a) In this section, "institution" means a general academic teaching institution, a medical and dental unit, or other agency of higher education, as those terms are defined by Section 61.003.

...

(c) At least once every three years, an institution shall conduct a safety and security audit of the institution's facilities. To the extent possible, an institution shall follow safety and security audit procedures developed in consultation with the division of emergency management of the office of the governor.

...

(e) Except as provided by Subsection (f), any document or information collected, developed, or produced during a safety and security audit conducted under Subsection (c) is not subject to disclosure under [the Act].

Educ. Code § 51.217(a), (c), (e). You inform us the University of North Texas is an institution as defined by section 61.003 of the Education Code. *See id.* § 61.003(3). You also inform us the submitted information was developed, collected, and produced during a safety and security audit of the system's facilities under section 51.217(c) of the Education

---

<sup>3</sup>Pursuant to section 552.303(c) of the Government Code, this office sent a notice to the system requesting that you provide additional information necessary for this office to render a decision. *See* Gov't Code § 552.303(c)-(d), (f) (if attorney general determines information in addition to that required by section 552.301 is necessary to render decision, written notice of that fact shall be given to governmental body and requestor, and governmental body shall submit necessary additional information to attorney general not later than seventh calendar day after date of receipt of notice). We received your response to our request for additional information on October 2, 2015, after the seven calendar-day deadline. Thus, the system failed to comply with the requirements of section 552.303. However, regardless of whether the system failed to comply with section 552.303(d) of the Government Code, we note section 552.101 of the Government Code is a mandatory exception that constitutes a compelling reason to withhold information sufficient to overcome the presumption of openness caused by a failure to timely comply with section 552.303. *See id.* §§ 552.007, .303, .352. Accordingly, we will consider the system's arguments under section 552.101.

Code. *See id.* § 51.217(c). We thus understand you to contend the submitted information is confidential under section 51.217(e). *See id.* § 51.217(e). We find none of the exceptions in subsection (f) are applicable to the information at issue. Accordingly, based on your representations and our review, we conclude the system must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 51.217(e) of the Education Code.<sup>4</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,



Joseph Behnke  
Assistant Attorney General  
Open Records Division

JB/som

Ref: ID# 580293

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

---

<sup>4</sup>As our ruling is dispositive, we do not address your remaining arguments against disclosure.