



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 10, 2016

Ms. Jennifer Burnett
Office of General Counsel
The University of Texas System
201 West Seventh Street, Suite 600
Austin, Texas 78701-2901

OR2016-10676

Dear Ms. Burnett:

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# 609358 (OGC# 167942).

The University of Texas at Arlington (the "university") received a request for all records pertaining to a specified investigation. 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, such as section 51.971 of the Education Code, which 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 also state the submitted information pertains to a completed investigation of allegations of sexual harassment conducted by the university's Office of Equal Opportunity Services. You inform us the university conducts an internal process of review to assess sexual harassment complaints to ultimately ensure that its employees complied with all applicable law, rules, regulations and policies relating to sexual harassment. Thus, we agree the submitted information pertains to the university's compliance program for the purposes of section 51.971 of the Education Code. *See id.* § 51.971(a).

You seek to withhold the submitted information in its entirety. You claim only a small subset of individuals were involved in the investigation. You state the requestor was a party to the incidents at issue and has specific knowledge of the incidents. Further, you inform us the investigation was completed and the university found the allegations were unsubstantiated. Accordingly, you assert release of the submitted information would directly or indirectly reveal the identities of those individuals who participated in the investigation or provided information, as well as the identity of an individual alleged to have planned, initiated, or participated in the events at issue because the requestor knows each person's

involvement in the events at issue. You inform us none of these individuals have consented to release of their information. Upon review, we agree release of the documents at issue would directly or indirectly identify individuals as complainants or participants in the compliance program investigation, or as an individual alleged to have planned, initiated, or participated in the activities at issue that are the subject to the unsubstantiated allegations. *See id.* § 51.971(c). However, we note the requestor is one of the individuals whose information is subject to section 51.971(c) of the Government Code. Thus, pursuant to section 51.971(d), we find the requestor has a right of access to information pertaining solely to himself, and such information, which we have marked for release, may not be withheld from him under section 552.101 of the Government Code in conjunction with section 51.971(c). *Cf.* Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Accordingly, with the exception of the information we marked for release, the university must withhold the submitted information under section 552.101 in conjunction with section 51.971(c).

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,



Cole Hutchison
Assistant Attorney General
Open Records Division

CH/akg

Ref: ID# 609358

Enc. Submitted documents

c: Requestor
(w/o enclosures)