



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 29, 2016

Ms. Cynthia Tynan
Attorney & Public Information Coordinator
Office of the General Counsel
The University of Texas System
201 West Seventh Street
Austin, Texas 78701-2901

OR2016-14872

Dear Ms. Tynan:

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# 616429 (OGC# 168965).

The University of Texas Health Science Center at San Antonio (the "university") received a request for all investigations regarding a named employee and the named employee's date of hire, date of separation, and reason for separation. 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, we note the university has not submitted information responsive to the request for the named employee's date of hire. We assume, to the extent any information responsive to this request existed on the date the university received the request, the university has released it. If the university has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.006, .301, .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." Gov't

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Code § 552.101. Section 552.101 encompasses section 51.971 of the Education Code, which provides in part:

(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.

...

(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 state 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 a closed compliance investigation into employee misconduct. You state the information at issue relates to a closed compliance matter in which one allegation was found to be substantiated, and the other allegations were found to

be unsubstantiated. You state the compliance investigations were undertaken by the university's Department of Institutional Compliance. You state the purpose of this investigation was to assess and ensure compliance with all applicable laws, rules, regulations, and policies. Based on your representations and our review, we find the information at issue relates to an investigation conducted under the university's compliance program. *See id.* § 51.971(a)(1).

You seek to withhold the entirety of the submitted information pursuant to section 51.971(c) of the Education Code. You argue that “merely withholding the names of the individuals involved is not sufficient to ensure the protections afforded” by section 51.971(c). You state “given the targeted focus of the request and the small subject of individuals involved, as well as the intertwined nature of the complaints and investigation” that release of any portion of the submitted information would directly or indirectly identify the individuals making a report to or seeking guidance from the compliance program office. You inform us none of these individuals at issue have consented to release of their information. Based on these representations and our review, we agree that release of the submitted information would directly or indirectly reveal the identities of the individuals who participated in the investigation. Accordingly, this information is confidential under section 51.971(c) of the Education Code in its entirety, and the university must withhold it under section 552.101 of the Government Code.

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,



Katelyn Blackburn-Rader
Assistant Attorney General
Open Records Division

KB-R/bw

Ref: ID# 616429

Enc. Submitted documents

c: Requestor
(w/o enclosures)