



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 11, 2016

Ms. Ruth E. Shapiro
Senior Assistant General Counsel
Office of the General Counsel
University of Houston System
4302 University Drive, Room 311
Houston, Texas 77204-2028

OR2016-15603

Dear Ms. Shapiro:

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# 617785.

The University of Houston (the "university") received two requests from different requestors representing the People for the Ethical Treatment of Animals ("PETA") for specified course syllabi, information related to a specified protocol, specified worksheets, and disposition records of all rats used in a specified course.¹ You state you do not possess some of the requested information.² You state you have released some information to the requestors. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have also received comments from an attorney representing

¹We note one requestor modified her request. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purposes of clarifying or narrowing request). *See also* *City of Dallas v. Abbott*, 304 S. W.3d 380, 387 (Tex. 2010) (holding that when governmental entity, acting in good faith, requests clarification or narrowing of unclear or overbroad request for public information, ten-day period to request attorney general ruling is measured from date request is clarified or narrowed).

²The 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).

PETA. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released). We have considered the submitted arguments and reviewed the submitted information.

Initially, we note the university has indicated some of the submitted information as non-responsive to the instant request. We also note the requestors agree to the redaction of names, addresses, e-mail addresses, locations, and other identifying information. This ruling does not address the public availability of non-responsive information, and the university is not required to release such information in response to this request.

Next, we note 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 of the Government Code 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:

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

(1) in a compliance program investigation and releasing the information would interfere with an ongoing compliance investigation[.]

Educ. Code § 51.971(e)(1). Section 51.971 defines a compliance program as “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[.]” *Id.* § 51.971(a)(1). 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 some of the submitted information pertains to an ongoing compliance investigation conducted by employees of the university’s Institutional Animal Care and Use Committee relating to the care and use of animals during research. Based on your representations and our review, we agree some of the submitted information pertains to the university’s compliance program for purposes of section 51.971. *See id.* § 51.971(a). You also represent release of the information at this time would interfere with, and potentially compromise, the ongoing investigation. Accordingly, we conclude the university must withhold the information you have indicated under section 552.101 of the Government Code in conjunction with section 51.971(e)(1) of the Education Code.

Section 552.101 of the Government Code also encompasses section 801.353 of the Occupations Code, which provides, in relevant part, the following:

(a) A veterinarian may not violate the confidential relationship between the veterinarian and the veterinarian’s client.

(b) A veterinarian may not be required to release information concerning the veterinarian's care of an animal, except on the veterinarian's receipt of:

- (1) a written authorization or other form of waiver executed by the client; or
- (2) an appropriate court order or subpoena.

Occ. Code § 801.353(a), (b). Section 801.353 limits a veterinarian's release of information concerning the veterinarian's care of an animal to certain circumstances. *See id.* We understand the remaining information consists of records of animals the university owns. You state the university does not consent to the release of this information. *See id.* § 801.351(a)(1) (defining "client" as "owner or other caretaker of the animal"). However, because the university is the owner, not the veterinarian, we find section 801.535 is not applicable. Thus, the university may not withhold the remaining information under section 552.101 of the Government Code on this basis.

In summary, the university must withhold the information you have indicated under section 552.101 of the Government Code in conjunction with section 51.971(e)(1) of the Education Code. The remaining responsive information must be released.

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,



Kavid Singh
Assistant Attorney General
Open Records Division

KVS/som

Ref: ID# 617785

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)

Third Party
(w/o enclosures)