



January 30, 2015

Ms. Ana Vieira
Attorney and Public Information Coordinator
Office of General Counsel
University of Texas System
201 West Seventh Street
Austin, Texas 78701-2902

OR2015-01922

Dear Ms. Vieira:

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# 552422 (OGC# 159191).

The University of Texas Medical Branch at Galveston (the "university") received a request for information concerning a specified discrimination complaint. 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. Section 552.101 encompasses section 51.971 of the Education Code, which provides:

(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:

...

(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)(2), (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). The submitted information consists of a completed investigation undertaken by the university's Human Resources Department. In response to the discrimination and retaliation allegations, you state the university "initiated its internal review processes to assess and ultimately, ensure compliance with all applicable laws, rules, regulations, and policies." We agree the submitted information pertains to the university's compliance program for the purposes of section 51.971. *See id.* § 51.971(a).

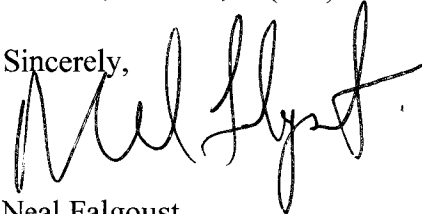
You state the university completed the investigation and determined the allegations of discrimination and retaliation were unsubstantiated. You also state that, given the targeted nature of the investigation and the small number of individuals involved, releasing any of the information at issue would indirectly reveal the identity of individuals who are alleged to have or may have planned, initiated, or participated in activities that are the subject of the report. Accordingly, we conclude the university generally must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 51.971(c)(2) of the Education Code. However, we note section 51.971(d) states the

confidentiality provision of section 51.971(c) does not apply to information concerning an individual who has consented to the disclosure of her information. In this instance, the requestor is the complainant at issue. Pursuant to section 51.971(d), we find the requestor has a right of access to her information and it may not be withheld under section 51.971(c)(2). *Cf.* Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Nonetheless, the university must withhold the remaining information under section 552.101 of the Government Code in conjunction with section 51.971(c)(2) of the Education Code. As our ruling is dispositive, we do not address your remaining argument.

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,



Neal Falgoust
Assistant Attorney General
Open Records Division

NF/bhf

Ref: ID# 552422

Enc. Submitted documents

c: Requestor
(w/o enclosures)