



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 6, 2016

Ms. Katherine Antwi Green
Associate General Counsel
Office of General Counsel
University of North Texas
1155 Union Circle, #310907
Denton, Texas 76203-5017

OR2016-15285

Dear Ms. Green:

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# 617158 (UNT System PIR No. 00003923).

The University of North Texas (the "university") received a request for three categories of information pertaining to Title IX cases and allegations during a specified time period. The university claims the submitted information is excepted from disclosure under section 552.101 of the Government Code.¹ We have considered the exception the university claims and reviewed the submitted representative sample of information.²

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, including

¹We note, and the university acknowledges, the university did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(b). Nonetheless, because section 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

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

section 51.971 of the Education Code. Section 51.971 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). The university states it is an institution of higher education for purposes of section 61.003 of the Education Code. *See id.* § 51.971(a)(2). The university

explains the submitted information pertains to compliance investigations conducted by the university's Office of Equal Opportunity (the "office"), which enforces the university's equal opportunity policies and investigates complaints of discrimination, harassment, and retaliation. Based on the university's representations and our review, we find the information at issue pertains to the university's compliance program for the purposes of section 51.971. *See id.* § 51.971(a). Section 51.971(c)(1) makes confidential information that identifies individuals as complainants, as having sought guidance from a compliance program, or as participants in an investigation conducted under a compliance program. *Id.* § 51.971(c)(1). Section 51.971(c)(2) makes confidential information that identifies individuals alleged to have committed the activities that are the subject of a complaint made to a compliance program office if the office determines the report is unsubstantiated. *Id.* § 51.971(c)(2). The university states the investigations at issue concluded in determinations that the reports were unsubstantiated. Upon review, we agree the information we have marked identifies individuals as participants in the compliance program investigations or as individuals alleged to have committed the activities that are the subject of the unsubstantiated complaints. We understand these individuals have not consented to release of their information. Accordingly, we find the university must withhold the information we have marked under section 552.101 in conjunction with section 51.971(c) of the Education Code. However, the university has failed to demonstrate the remaining information at issue is confidential under section 51.971 of the Education Code, and the university may not withhold it under section 552.101 of the Government Code on that basis. As the university raises no further exceptions against disclosure, the university must release the remaining information. The university must release the remaining information.

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,



Rahat Huq
Assistant Attorney General
Open Records Division

RSH/som

Ref: ID# 617158

Enc. Submitted documents

c: Requestor
(w/o enclosures)