



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 20, 2016

Ms. Angie A. Welborn
General Counsel
State Auditor's Office
P.O. Box 12067
Austin, Texas 78711-2067

OR2016-21250

Dear Ms. Welborn:

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# 627375

The State Auditor's Office (the "SAO") received a request for seventy-four specified audits. You state you have provided some information to the requestor. Although you take no position as to whether the submitted information is excepted under the Act, you state release of some of this information may implicate the interests of the Office of the Attorney General (the "OAG"), the Texas A&M University System (the "system"), the Texas Juvenile Justice Department (the "TJJD"), the Texas Department of Transportation (the "department"), and the Texas Health and Human Services Commission (the "commission"). Accordingly, you state you notified the third parties of the request for information and of their rights to submit arguments to this office as to why the information at issue should not be released. *See* Gov't Code § 552.304 (permitting interested third party to submit to attorney general reasons why requested information should or should not be released). As of the date of this letter, we have not received comments from the TJJD, the department, or the commission. We have received comments from the OAG and the system. We have considered the submitted arguments and reviewed the submitted information.

Section 552.101 of the Government Code excepts from public 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.

(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; or

(2) by a systemwide compliance office for the purpose of reviewing compliance processes at a component institution of higher education of a university system.

Educ. Code § 51.971(e). We understand the system is an institution of higher education for purposes of section 61.003 of the Education Code. *See id.* § 51.971(a)(2). The system states the information it has indicated concerns system-wide reviews of Clery Act compliance and Title IX Sexual Violence Policies and Procedures conducted by the system's Internal Audit Department as part of the system's compliance program. The system explains these reviews were conducted to assess institutional compliance with all applicable laws, rules, regulations, and policies. Based on the system's representations and our review, we conclude the information the system has indicated is confidential under section 51.971(e)(2) of the Education Code, and the SAO must withhold it under section 552.101 of the Government Code.

Section 552.139 of the Government Code provides, in part:

(a) Information is excepted from [required public disclosure] if it is information that relates to computer network security, to restricted information under Section 2059.055 [of the Government Code], or to the design, operation, or defense of a computer network.

(b) The following information is confidential:

- (1) a computer network vulnerability report; [and]
- (2) any other assessment of the extent to which data processing operations, a computer, a computer program, network, system, or system interface, or software of a governmental body or of a contractor of a governmental body is vulnerable to unauthorized access or harm, including an assessment of the extent to which the governmental body's or contractor's electronically stored information containing sensitive or critical information is vulnerable to alteration, damage, erasure, or inappropriate use[.]

Gov't Code § 552.139(a), (b)(1)–(2). The OAG asserts the information it has marked is a security assessment that contains the OAG's data processing operation and computer systems, including potential vulnerabilities. Based on the OAG's representations and our review of the information, we conclude the SAO must withhold the information the OAG has marked under section 552.139 of the Government Code.

In summary, the SAO must withhold the information the system has indicated under section 51.971(e)(2) of the Education Code in conjunction with section 552.101 of the Government Code. The SAO must withhold the information the OAG has marked under section 552.139 of the Government Code. As no other exceptions to disclosure have been raised, the remaining 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,



Katelyn Blakburn-Rader
Assistant Attorney General
Open Records Division

KB-R/bhf

Ref: ID# 627375

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Parties
(w/o enclosures)