



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 2, 2016

Ms. Jennifer Burnett  
Attorney & Public Information Coordinator  
Office of General Counsel  
The University of Texas System  
201 West Seventh Street, Suite 600  
Austin, Texas 78701

OR2016-26756

Dear Ms. Burnett:

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# 636152 (OGC # 171835).

The University of Texas Medical Branch at Galveston (the "university") received a request for all statements made by seven named employees pertaining to a specified incident involving the requestor. 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, you state some of the requested information was the subject of a previous request for a ruling, as a result of which this office issued Open Records Letter No. 2016-22958 (2016). In that ruling, we determined the university must withhold the information at issue under section 552.101 of the Government Code in conjunction with section 51.971(c)(1) of the Education Code. We have no indication the law, facts, or circumstances on which the prior ruling was based have changed. Thus, the university must continue to rely on Open Records Letter No. 2016-22958 as a previous determination and withhold the information at issue in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). Next, we

address your argument against disclosure of the submitted information that is not subject to the prior ruling.

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 information protected by other statutes, such as section 51.971 of the Education Code, which provides, in pertinent 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.

(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[.]

...

(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)(1), (d). You inform us 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 completed investigation undertaken by the university’s Department of Human Resources. You state the investigation was conducted

in response to allegations against university employees and was initiated in order to assess and ensure compliance with all applicable laws, rules, regulations, and policies. Based on these representations, we find this information relates to an investigation conducted under the university's compliance program. *See id.* § 51.971(a)(1).

You seek to withhold the submitted information in its entirety. You inform us only a small subset of individuals were involved in the investigation at issue, and release of the information would directly or indirectly reveal the identities of those individuals who participated in the investigation. You further explain the requestor has specific knowledge of the events at issue and the employees involved. Accordingly, you assert release of the submitted information would directly or indirectly identify the individuals seeking guidance from or participating in the compliance program investigation. You inform us none of the individuals at issue have consented to release of their information. *See id.* § 51.971(d). Upon review, we agree release of this information would directly or indirectly identify individuals as participants in the compliance program investigation. *See id.* § 51.971(c). Accordingly, the university must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 51.971(c)(1) of the Education Code.

In summary, the university must continue to rely on Open Records Letter No. 2016-22958 as a previous determination and withhold the information at issue in accordance with that ruling. The university must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 51.971(c)(1) of the Education 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](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,



Sidney M. Pounds  
Assistant Attorney General  
Open Records Division

SMP/akg

Ref: ID# 636152

Enc. Submitted documents

c: Requestor  
(w/o enclosures)