



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 9, 2017

Ms. Cynthia Tynan  
Senior Attorney & Public Information Coordinator  
Office of General Counsel  
The University of Texas System  
201 West Seventh Street, Suite 600  
Austin, Texas 78701-2902

OR2017-00572

Dear Ms. Tynan:

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# 641217 (OGC # 172475).

The University of Texas at Austin (the "university") received a request for the personnel file of a named employee and correspondence pertaining to the named employee sent to or from two named individuals during a specified period of time. You claim the requested information is excepted from disclosure under sections 552.101, 552.107, and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

Initially, you inform us some of the requested information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2016-27186 (2016). In that ruling, we concluded the university must withhold certain information under section 552.101 of the Government Code in conjunction with sections 51.971(c) and 51.971(e)(1) of the Education Code; the university may withhold

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<sup>1</sup>We 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.

certain information under sections 552.107(1) and 552.111 of the Government Code; the university must withhold certain information under section 552.117(a)(1) of the Government Code if the individuals whose information is at issue timely requested confidentiality under section 552.024 of the Government Code and if a governmental body does not pay for the cellular telephone service; and the university must release the remaining information at issue. As we have no indication the law, facts, and circumstances on which the prior ruling was based have changed, the university must continue to rely on Open Records Letter No. 2016-27186 as a previous determination and withhold or release the information previously ruled upon 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 prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). We will consider the submitted arguments against disclosure for the submitted information that is not encompassed by the previous 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. This section 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:

(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.

(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(a), (c)-(e)(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 the submitted information pertains to ongoing compliance investigations into allegations of misconduct being conducted by the university's Office of Legal Affairs in conjunction with the university's athletics department. Based on your representations and our review, we agree the information at issue 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 investigations. Accordingly, we conclude the university must withhold the remaining information under section 552.101 of the Government Code in conjunction with section 51.971(e)(1) of the Education Code.<sup>2</sup>

In summary, the university must continue to rely on Open Records Letter No. 2016-27186 as a previous determination and withhold or release the information previously ruled upon in accordance with that ruling. The university must withhold the remaining information

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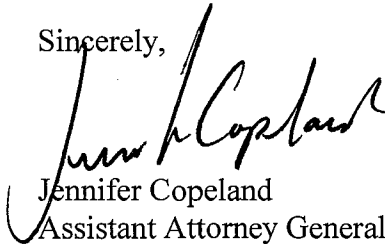
<sup>2</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

under section 552.101 of the Government Code in conjunction with section 51.971(e)(1) of the Education Code.<sup>3</sup>

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,



Jennifer Copeland  
Assistant Attorney General  
Open Records Division

JL/sb

Ref: ID# 641217

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>3</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.