



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 20, 2017

Ms. Jennifer Burnett  
Attorney & Public Information Coordinator  
The University of Texas  
201 West Seventh Street, Suite 600  
Austin, Texas 78701-2901

OR2017-01354

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# 642393 (OGC# 172563).

The University of Texas Rio Grande Valley (the "university") received a request for information pertaining to an investigation into a named individual. You state you released some information. You claim some of 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 information protected by other statutes, such as section 51.971 of the Education Code, which 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). 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 also state the submitted information relates to a completed investigation of allegations of misconduct and retaliation conducted by the university's Department of Human Resources. You inform us the university conducts an internal review process to assess and ultimately ensure the university complies with all applicable laws, rules, regulations and policies. Thus, we agree the submitted information pertains to the university's compliance program for the purposes of section 51.971 of the Education Code. *See id.* § 51.971(a).

You seek to withhold most of the submitted information. You claim only a small subset of individuals were involved in the investigation. You state the requestor was a party to the incidents at issue and has specific knowledge of the incidents. Further, you inform us the

completed compliance investigation found the allegations were, in part, unsubstantiated or without merit. Accordingly, you assert release of the information at issue would directly or indirectly reveal the identities of individuals who participated in the compliance program investigation, and could subject these individuals to harassment or retaliation by other employees of the university because the requestor has detailed knowledge of the alleged incidents at issue. You inform us none of these individuals have consented to release of their information. Upon review, we agree release of the documents at issue would directly or indirectly identify individuals as participants in the compliance program investigation, or as an individual alleged to have planned, initiated, or participated in the activities at issue that are the subject to the unsubstantiated allegations. *See id.* § 51.971(c). However, we note, and you acknowledge, the requestor is one of the individuals whose information is subject to section 51.971(c) of the Education Code. Thus, pursuant to section 51.971(d), we find the requestor has a right of access to information pertaining solely to herself, and such information, which you state you will release, may not be withheld from her under section 552.101 of the Government Code in conjunction with section 51.971(c). *Cf.* Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Accordingly, with the exception of the information pertaining solely to the requestor, which you state you will release, the university must withhold the information you marked under section 552.101 in conjunction with section 51.971(c). 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](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,



Meagan J. Conway  
Assistant Attorney General  
Open Records Division

MJC/sb

Ref: ID# 642393

Enc. Submitted documents

c: Requestor  
(w/o enclosures)