



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 10, 2017

Ms. Claudene Marshall
Assistant General Counsel
The Texas A&M University System
301 Tarrow Street, Sixth Floor
College Station, Texas 77840-7896

OR2017-03102

Dear Ms. Marshall:

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# 645250 (W002079-111616 & R000013-010317).

Texas A&M University (the "university") received two requests from different requestors for a specified report and the second requestor's personnel file. 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. Section 51.971 of the Education Code provides, in pertinent 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). We understand 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 allegations of policy and standards of conduct violations reported to and investigated by university administrators who are part of the university's compliance program. Based on these representations, we find the information at issue relates to an investigation conducted under the university's compliance program. *See id.* § 51.971(a)(1).

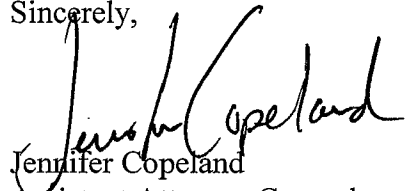
You seek to withhold portions of the submitted information under section 51.971(c) of the Education Code. Section 51.971(c)(1) makes confidential information that identifies individuals as complainants, as having sought guidance from a compliance program, or as participants in an investigation conducted 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). However, subsection (c) does not apply to information related to an individual who consents to disclosure of the information. *Id.* § 51.971(d). We understand the submitted information pertains to a completed compliance investigation. We note the submitted information reflects the investigation concluded in a determination the complaints were substantiated. Upon review, we agree the information we marked identifies individuals as participants in the compliance program investigation. However, we note the first requestor is one of the individuals whose information is subject to section 51.971(c). Pursuant to section 51.971(d), we find the information pertaining solely to the first requestor is not confidential with respect to the first requestor and thus, may not be withheld from him under section 552.101 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). We understand the remaining individuals have not consented to release of their information. Accordingly, we find the university must withhold the information we marked from the first and second requestors under section 552.101 of the Government Code in conjunction with section 51.971(c) of the Education Code. Because the first requestor has not consented to release of his information to the second requestor, the university must withhold the first requestor's information, which we have marked, from the second requestor 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 would directly or indirectly reveal the identities of the individuals who made the complaints, sought guidance from the audit office, or participated in the investigation at issue, or of individuals who were alleged to have or may have planned, initiated, or participated in activities that are the subject of the investigations at issue involving allegations that were determined to be unsubstantiated. Consequently, the university failed to show 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 to disclosure, it 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,



Jennifer Copeland
Assistant Attorney General
Open Records Division

JC/sb

Ref: ID# 645250

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)