



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 7, 2017

Mr. Ronny H. Wall
Associate General Counsel
Office of General Counsel
Texas Tech University System
P.O. Box 42021
Lubbock, Texas 79409-2021

OR2017-04813

Dear Mr. Wall:

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# 648132.

Texas Tech University (the "university") received a request for any communications between the university's athletic department and the Big 12 Conference (the "Big 12") and communications among university officials during a specified time period regarding conference football schedules. You claim the submitted information is not subject to the Act. You also claim the submitted information is excepted from disclosure under section 552.104 of the Government Code.¹ Additionally, you state release of the submitted information may implicate the interests of a third party. Accordingly, you state, and provide documentation demonstrating, the university notified the Big 12 of the request for information and of its right to submit arguments stating why its information should not be released. *See Gov't Code § 552.305* (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in certain circumstances). We have considered your arguments and reviewed the submitted information.

¹Although you also raise sections 552.101, 552.110, and 552.111 of the Government Code, you have not submitted arguments explaining how these exceptions apply to the submitted information. Therefore, we presume that you have withdrawn these exceptions. *See Gov't Code §§ 552.301, .302.*

You argue the submitted information is not subject to the Act. The Act is only applicable to “public information.” *See* Gov’t Code § 552.021. Section 552.002 of the Government Code defines “public information” as the following:

[I]nformation that written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

(1) by a governmental body;

(2) for a governmental body and the governmental body:

(A) owns the information;

(B) has a right of access to the information; or

(C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or

(3) by an individual officer or employee of a governmental body in the officer’s or employee’s official capacity and the information pertains to official business of the governmental body.

Id. § 552.002(a). Section 552.002(a-1) also provides the following:

Information is in connection with the transaction of official business if the information is created by, transmitted to, received by, or maintained by an officer or employee of the governmental body in the officer’s or employee’s official capacity, or a person or entity performing official business or a governmental function on behalf of a governmental body, and pertains to official business of the governmental body.

Id. § 552.002(a-1). Thus, virtually all of the information in a governmental body’s physical possession constitutes public information and, thus, is subject to the Act. *Id.* § 552.002(a)(1); *see* Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988). You contend the submitted information was e-mailed by the Big 12 to the university’s athletic director in his capacity as a member of the Big 12’s board of directors, and not in performance of his duties for the university. Thus, you assert the information at issue was not written, produced, collected, assembled, or maintained in connection with the transaction of any official business of the university. Having considered your arguments and reviewed the information at issue, we find the submitted information was not “written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business” by or for the university. Gov’t Code § 552.002; *see* Open Records Decision No. 635 (1995) (statutory predecessor not applicable to personal

information unrelated to official business and created or maintained by state employee involving *de minimis* use of state resources). We therefore conclude the submitted information is not subject to the Act and the university is not required to release this information in response to the instant request for information.²

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,



Kieran Hillis
Assistant Attorney General
Open Records Division

KH/sb

Ref: ID# 648132

Enc. Submitted documents

c: Requestor
(w/o enclosures)

1 Third Party
(w/o enclosures)

²As our ruling is dispositive, we need not address your remaining argument against disclosure of the submitted information.