



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 21, 2017

Mr. Matthew W. Burris  
Assistant General Counsel  
University of North Texas System  
1155 Union Circle, #310907  
Denton, Texas 76203-5017

OR2017-18980

Dear Mr. Burris:

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# 672894 (PIR No. 005058).

The University of North Texas (the "university") received a request for information pertaining to two named individuals during a specified time period. 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 representative sample of information.<sup>1</sup>

Initially, you inform us the submitted was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2017-12087 (2017). In Open Records Letter No. 2017-12087, we determined the university must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 51.971(e)(1) of the Education. We understand the circumstances have changed in regard to this information and the university may not rely on Open Records Letter No. 2017-12087 as a previous determination in this instance. *See* Open Records Decision

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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 that those records contain substantially different types of information than that submitted to this office.

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 information is or is not excepted from disclosure). Accordingly, we will address your argument against disclosure of 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 the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. The university asserts the submitted information is confidential under common-law privacy and the holding in *Morales v. Ellen*, 840 S.W.2d 519 (Tex. App.—El Paso 1992, writ denied). In *Ellen*, the court addressed the applicability of the common-law privacy doctrine to files of an investigation of allegations of sexual harassment. However, the ruling in *Ellen* was applicable to investigations involving workplace harassment. Upon review, we find none of the information at issue constitutes a sexual harassment investigation in the employment context of the university for purposes of *Ellen*. Accordingly, we conclude the ruling in *Ellen* is not applicable in this situation, and the university may not withhold any portion of the submitted information under section 552.101 of the Government Code on that basis. Further, we find none of the submitted information is highly intimate or embarrassing information and of no legitimate public interest, and it may not be withheld under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release.<sup>2</sup> See Gov’t Code § 552.130. Accordingly, the university must withhold the motor vehicle record information we marked under section 552.130 of the Government Code. 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.

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<sup>2</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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,

A handwritten signature in black ink, appearing to read "Paige Thompson". The signature is written in a cursive style with a large initial "P".

Paige Thompson  
Assistant Attorney General  
Open Records Division

PT/eb

Ref: ID# 672894

Enc. Submitted documents

c: Requestor  
(w/o enclosures)