



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 25, 2017

Ms. Ana Vieira Ayala
Assistant General Counsel and Public Information Coordinator
The University of Texas System
210 West 7th Street
Austin, Texas 78701-2902

OR2017-19509

Dear Ms. Ayala:

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# 672876 (OGC# 175894).

The University of Texas Medical Branch at Galveston (the "university") received two requests for information pertaining to a specified investigation. You state the university does not possess some of the requested information.¹ 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 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. This section encompasses information protected by other statutes, such as section 51.971 of the Education Code, which provides, in pertinent part:

(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

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

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 state the information at issue consists of witness statements from a closed compliance investigation conducted by the university in response to allegations of discrimination and retaliation. You explain that in response to the complaint received, the university initiated its internal review process to assess and ensure compliance with all applicable laws, rules, regulations, and policies. 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).

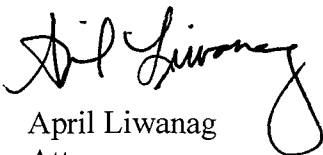
You inform us the investigation concluded in a determination the allegations were unsubstantiated. You assert that in this instance, where only a small subset of individuals were involved in the investigation and the requestor has knowledge of the events at issue, releasing any of the information relating to the individuals or investigation would identify, directly and/or indirectly, the individuals seeking guidance from or participating in a compliance program investigation. *See id.* § 51.971(c)(1). You state none of the individuals involved have consented to the disclosure of their identifying information. *See id.* § 51.971(d).

Upon review of your representations and the submitted information, we agree the release of the submitted information would directly or indirectly reveal the identities of the individuals who participated in the investigation at issue. Accordingly, the submitted information is confidential under section 51.971 of the Education Code and must be withheld under section 552.101 of the Government Code.

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,



April Liwanag
Attorney
Open Records Division

AML/eb

Ref: ID# 672876

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)