



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 22, 2017

Mr. Rick Faulkner  
Counsel for Kilgore College  
Coghlan Crowson LLP  
P. O. Box 2665  
Longview, Texas 75606

OR2017-21786

Dear Mr. Faulkner:

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# 676898 (KC ID No. 2017-41-KC).

Kilgore College (the "college"), which you represent, received a request for information pertaining to a named employee.<sup>1</sup> You claim portions of the submitted information are excepted from disclosure under sections 552.101 and 552.111 of the Government Code. You state you notified the named individual of his right to submit arguments.<sup>2</sup> See Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released). We have considered your arguments and reviewed the submitted information.

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<sup>1</sup>You state the college sought and received clarification of the request for information. See Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *City of Dallas v Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

<sup>2</sup>As of the date of this ruling, we have not received comments from this individual explaining why the submitted information should not be released.

Initially, you state some of the submitted information, which you have marked, is not responsive to the present request. However, we note the information at issue is contained within documents pertaining to the named individual. Thus, we find this information is responsive to the request, and we will consider its public availability.

Section 552.101 of the Government Code exempts 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 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[.]

(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)(1), (d). You inform us the college 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 you marked pertains to reports to the college's compliance programs used to assess and ensure compliance by the officers and employees of the college with applicable laws, rules, regulations, and policies, including matters of ethics and standards of conduct. Based on these representations and our review, we find the information at issue relates to a report to a compliance program. *See id.* § 51.971(a)(1).

You claim the information at issue directly or indirectly reveals the identity of persons who made reports to or sought guidance pursuant to the college's compliance policy. Based on your representations, we find the information you marked is confidential under section 51.971 of the Education Code and must be withheld under section 552.101 of the Government Code.<sup>3</sup>

Section 552.117(a)(1) of the Government Code excepts from disclosure the home address and telephone number, emergency contact information, social security number, and family member information of a current or former employee or official of a governmental body who requests this information be kept confidential under section 552.024 of the Government Code.<sup>4</sup> Gov't Code § 552.117(a)(1). Whether a particular item of information is protected by section 552.117(a)(1) must be determined at the time of the governmental body's receipt of the request for the information. *See Open Records Decision No. 530 at 5 (1989)*. Thus, information may be withheld under section 552.117(a)(1) only on behalf of a current or former employee or official who made a request for confidentiality under section 552.024 prior to the date of the governmental body's receipt of the request for the information. Therefore, to the extent the named individual timely requested confidentiality under section 552.024 of the Government Code, the college must withhold the information we marked under section 552.117(a)(1) of the Government Code. Conversely, to the extent the named individual did not timely request confidentiality under section 552.024, the college may not withhold the information we marked under section 552.117(a)(1).

In summary, the college must withhold the information you marked under section 552.101 of the Government Code in conjunction with section 51.971 of the Education Code. To the extent the named individual timely requested confidentiality under section 552.024 of the Government Code, the college must withhold the information we marked under section 552.117(a)(1) of the Government Code. The remaining information must be released.

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<sup>3</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

<sup>4</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 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,



Melanie J. Villars  
Assistant Attorney General  
Open Records Division

MJV/eb

Ref: ID# 676898

Enc. Submitted documents

c: Requestor  
(w/o enclosures)