



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 9, 2019

Ms. Cynthia Tynan  
Senior Attorney & Public Information Corrdinator  
University of Texas System  
201 West Seventh Street  
Austin, Texas 78701-2902

OR2019-00556

Dear Ms. Tynan:

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# 745500 (ORR# 148511).

The University of Texas at Austin (the "university") received a request for information related to a named university professor.<sup>1</sup> The university states it has redacted student-identifying information from the submitted documents pursuant to the Family Educational Rights and Privacy Act ("FERPA"), section 1232g of title 20 of the United

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<sup>1</sup>The university states it sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

States Code.<sup>2</sup> The university states it is releasing some of the requested information. The university claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception the university claims 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, including section 51.971 of the Education Code. Section 51.971 of the Education Code provides, in relevant 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

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<sup>2</sup>The United States Department of Education Family Policy Compliance Office (the “DOE”) has informed this office FERPA does not permit state and local educational authorities to disclose to this office, without parental or student consent, unredacted, personally identifiable information contained in education records for the purpose of our review in the open records ruling process under the Act. The DOE has determined FERPA determinations must be made by the educational authority in possession of the education records. A copy of this letter may be found on the Office of the Attorney General’s website: <https://www.texasattorneygeneral.gov/sites/default/files/files/divisions/open-government/20060725-USDOE-FERPA.pdf>.

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.

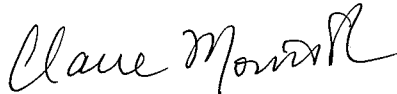
Educ. Code § 51.971(a), (c)-(d). The university informs us it is an institution of higher education for purposes of section 61.003 of the Education Code. *See id.* § 51.971(a)(2). The university states the submitted information relates to a completed investigation initiated by the university's Office for Inclusion and Equity in the Division of Diversity and Community Engagement in response to a complaint alleging misconduct by the named university professor. The university states the issues reviewed during the internal investigation pertained to compliance with university policies including matters of standards of conduct exhibited by a university employee. The university explains the purpose of this investigation was to assess and ensure compliance with all applicable laws, policies, ethics, and standards of conduct. Based on these representations and our review, we find the information at issue relates to an investigation conducted under the university's compliance program. *See id.* § 51.971(a)(1).

The university seeks to withhold the submitted information in its entirety under section 51.971(c)(1) of the Education Code. The university informs us the allegations at issue were unsubstantiated. The university explains the requestor has specific knowledge of the identity of the individual who was the subject of the complaint. The university informs us the individual at issue has not consented to release of his information. *See id.* § 51.971 (d). Based on the university's representations and our review, we agree release of the submitted information would directly or indirectly identify an individual who is alleged to have or may have planned, initiated, or participated in the activities at issue that are the subject of the compliance program investigation. Accordingly, we find the university must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 51.971(c) of the Education 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](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,



Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/mo

Ref: ID# 745500

Enc. Submitted documents

c: Requestor  
(w/o enclosures)