



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 30, 2019

Ms. Jennifer Burnett
Office of the General Counsel
University of Texas System
210 West Seventh Street
Austin, Texas 78701

OR2019-02770

Dear Ms. Burnett:

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# 748076 (ORR# 185866).

The University of Texas Southwestern Medical Center (the "university") received a request for information pertaining to a specified complaint. The university states it will release some of the requested information, but claims some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception 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, 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 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.

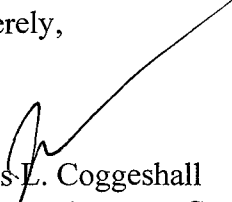
Educ. Code § 51.971(a), (c)-(d). The university inform us it is an institution of higher education for purposes of section 61.003 of the Education Code. *See id.* § 51.971(a)(2). The university states the submitted information relates to a closed compliance investigation conducted by the university's Office of Diversity & Inclusion and Equal Opportunity in which it was determined the allegations were unsubstantiated. The university further states the investigation was conducted in response to allegations of misconduct by a university employee and initiated in order to assess and ensure compliance with all applicable laws, rules, regulations, and policies. Based on these representations, we find the submitted information relates to investigations that were conducted under the university's compliance program. *See id.* § 51.971(a)(1).

The university asserts the information it has marked directly or indirectly reveals the identities of individuals participating in the compliance program investigations at issue, as well as the identity of an individual who was alleged to have or may have planned, initiated, or participated in activities that are the subject of an unsubstantiated report. The university also informs us the individuals at issue did not consent to release of their information. *See id.* § 51.971(d). Based on these representations, we agree the university must withhold the information it has marked under section 552.101 of the Government Code in conjunction with subsections 51.971(c)(1) and (2) of the Education 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.

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/eb

Ref: ID# 748076

Enc. Submitted documents

c: Requestor
(w/o enclosures)