



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 6, 2019

Ms. Jennifer Burnett
Senior Attorney & Public Information Coordinator
The University of Texas System
210 West 7th Street
Austin, Texas 78701-2901

OR2019-15016

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# 769392 (OGC# 189708).

The University of Texas at Austin (the "university") received a request for a specified report regarding a specified investigation involving a former university employee.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.

Initially, you state some of the requested information was the subject of a previous request for a ruling, as a result of which this office issued Open Records Letter No. 2019-12082 (2019). In that ruling, we determined the university (1) must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 51.971(c) of the Education Code, and (2) must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 51.971(e)(1) of

¹We note the university 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 over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

the Education Code. You state the law, facts, or circumstances on which the prior ruling was based have not changed. Thus, the university must continue to rely on Open Records Letter No. 2019-12082 as a previous determination and withhold the information at issue in accordance with that ruling. *See* Open Records Decision 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 a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

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 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:

...

(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)(2), (d). You state the university is an institution of higher education under section 61.003 of the Education Code. *See id.* §§ 51.971(a)(2), 61.003. You state the remaining information relates to internal compliance investigations conducted by the university's Office of Inclusion and Equity. You state the investigations were initiated in response to complaints of misconduct by university employees and were conducted in order to assess and ensure compliance with all applicable laws, rules, regulations, and policies. Based on your representations, we find this information relates to investigations conducted under the university's compliance program. *See id.* § 51.971(a)(1).

You assert the remaining information is confidential under section 51.971(c)(2). Section 51.971(c)(2) makes confidential information that identifies individuals alleged to have committed the activities that are the subject that are the subject of a complaint made to a compliance program office if the office determines the report is unsubstantiated. *Id.* § 51.971(c)(2). However, subsection (c) does not apply to information related to an individual who consents to disclosure of the information. *Id.* § 51.971(d). You state the remaining information "pertains to two compliance investigations that concluded with a determination that the allegations were unsubstantiated." You also state the release of the remaining information would directly or indirectly reveal the identity of the individual who was alleged to have planned, initiated, or participated in activities that were the subject of the unsubstantiated allegations and individuals participating in the compliance program investigation. You inform us none of the individuals at issue consented to release of their information. Accordingly, the university must withhold the remaining information under section 552.101 of the Government Code in conjunction with section 51.971(c)(2) of the Education Code.

In summary, the university must continue to rely on Open Records Letter No. 2019-12082 as a previous determination and withhold the information at issue in accordance with that ruling. The university must withhold the remaining information under section 552.101 of the Government Code in conjunction with section 51.971(c)(2) 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](#), 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 "Emily Buchanan". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Emily Buchanan
Attorney
Open Records Division

EB/eb

Ref: ID# 769392

Enc. Submitted documents

c: Requestor
(w/o enclosures)