



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 12, 2019

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

OR2019-18887

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# 775064 (OGC No. 190106).

The University of Texas at El Paso (the "university") received a request for information pertaining to two named individuals. You state the university will release some of the requested information. You state the university is withholding confidential student records pursuant to the Family Educational Rights and Privacy Act ("FERPA"), section 1232g of title 20 of the United States Code.<sup>1</sup> 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

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<sup>1</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>.

Code § 552.101. Section 552.101 encompasses information protected by other statutes. Section 51.971 of the Education Code 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.

...

(e) Information is excepted from disclosure under [the Act] if it is collected or produced:

(1) in a compliance program investigation and releasing the information would interfere with an ongoing compliance investigation[.]

Educ. Code § 51.971(a), (e)(1). You state the university is an institution of higher education for purposes of section 61.003 of the Education Code. *See id.* § 51.971(a)(2).

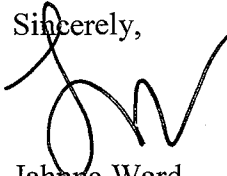
You assert the information at issue pertains to an investigation into allegations of employee misconduct. You state the investigation is being conducted by the university's Office of Equal Opportunity Services. You further state the purpose of the investigation is to assess and ultimately ensure that all university employees have complied with all applicable law, rules, regulations, and policies. Based on your representations and our review, we agree the information at issue pertains to the university's compliance program for purposes of section 51.971. *See id.* § 51.971(a). You inform us the information at issue has been collected and is being reviewed in an ongoing compliance investigation regarding alleged misconduct by university employees. You also represent release of the information during the pendency of the unresolved investigation would interfere with, and potentially compromise, the investigation. Accordingly, we conclude the university must withhold the submitted

information under section 552.101 of the Government Code in conjunction with section 51.971(e)(1) 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,



Jahna Ward  
Assistant Attorney General  
Open Records Division

JW/be

Ref: ID# 775064

Enc. Submitted documents

c: Requestor  
(w/o enclosures)