



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 16, 2019

Ms. Ana Vieira Ayala  
Assistant General Counsel  
University of Texas System  
210 West 7th Street  
Austin, Texas 78701-2901

OR2019-19282

Dear Ms. Ayala:

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# 775518 (OGC# 190218).

The University of Texas Southwestern Medical Center (the "university") received a request for information for a complaint involving the requestor. You state you will release some information with redactions made pursuant to the previous determination issued in Open Records Letter No. 2016-13184A (2016).<sup>1</sup> You claim portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>2</sup>

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, which provides, in relevant part, the following:

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<sup>1</sup>Open Records Letter No. 2016-13184A is a previous determination authorizing the University of Texas System and its institutions to withhold individuals' protected health information under section 181.006 of the Health and Safety Code.

<sup>2</sup>We assume the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withhold of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

(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 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 closed compliance investigation conducted by university’s Office of Compliance 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 an investigation that was conducted under the university's compliance program. *See id.* § 51.971(a)(1).

The university asserts the information it marked directly or indirectly reveals the identities of individuals participating in the compliance program investigation at issue, as well as the identity of individuals who were 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 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](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,



Kimbell Kesling  
Attorney  
Open Records Division

KK/eb

Ref: ID# 775518

Enc. Submitted documents

c: Requestor  
(w/o enclosures)