



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 16, 2019

Ms. Julie A. Masek  
Assistant General Counsel  
The Texas A&M University System  
301 Tarrow Street, 6<sup>th</sup> Floor  
College Station, Texas 77840

OR2019-22828

Dear Ms. Masek:

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# 780875 (C001150-052619).

Texas A&M University (the "university") received a request for information pertaining to a named individual, including disciplinary actions, complaints, any resolutions, required training, and letter of termination or resignation. You state you do not have information responsive to portions of the request.<sup>1</sup> You also state you have released some information. 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 "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

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<sup>1</sup>The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

section 51.971 of the Education Code. Section 51.971 of the Education Code provides, in relevant part:

(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). We note 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 state the information at issue consists of records regarding complaint allegations made through the university's compliance hotline. Thus, we agree the information at issue pertains to the university's compliance program for the purposes of section 51.971 of the Education Code. *See id.* § 51.971(a).

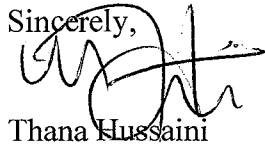
You seek to withhold the submitted information under section 51.971(c) of the Education Code. Section 51.971(c)(1) makes confidential information that identifies individuals as complainants, as having sought guidance from a compliance program, or as participants in an investigation conducted under a compliance program. *Id.* § 51.971(c)(1). Section 51.971(c)(2) makes confidential information that identifies individuals alleged to have committed the activities 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 information at issue pertains to a concluded investigation in which the allegations were determined to be wholly unsubstantiated. You argue due to the form of the request relating to a single university employee, merely removing identifying information of the sole respondent will not adequately protect the identity of the individual with the unsubstantiated allegations. You assert release of the information at issue would directly or indirectly identify the individuals seeking guidance from or participating in the compliance program investigations at issue, as well as the identity of the individual alleged to have participated in the unsubstantiated alleged activities. You inform us none of the individuals at issue in the investigations have consented to the disclosure of their identifying information. *See id.* § 51.971(d). Upon review, we agree release of the information at issue would directly or indirectly identify individuals as participants in compliance program investigations or the individual alleged to have participated in the unsubstantiated alleged activities. *See id.* § 51.971(c). Accordingly, we find the university must withhold the submitted information 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable

charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'Thana Hussaini', written over the word 'Sincerely,'.

Thana Hussaini  
Assistant Attorney General  
Open Records Division

TH/mo

Ref: ID# 780875.

Enc. Submitted documents

c: Requestor  
(w/o enclosures)