



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 21, 2019

Mr. Ronny Wall
Senior Associate General Counsel
Texas Tech University System
P.O. Box 45031
Lubbock, Texas 79409-5031

OR2019-29651

Dear Mr. Wall:

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# 790889.

Texas Tech University (the "university") received a request for e-mail communications between named individuals pertaining to one of the individual's role on the men's basketball working group of the National College Association of America (the "NCAA"). You state you have released some information to the requestor. You state the submitted information is not subject to the Act. In the alternative, you claim the submitted information is excepted from disclosure under sections 552.111 and 552.137 of the Government Code. In addition, you state the release of some of the submitted information may implicate the proprietary interests of the NCAA. Accordingly, the you state, and provide documentation showing, the university notified the NCAA of the request for information and of the right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have considered your arguments and reviewed the submitted information.

The Act applies to "public information," which is defined in section 552.002 of the Government Code as:

- (a) . . . information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

- (1) by a governmental body; or
- (2) for a governmental body and the governmental body:
 - (A) owns the information;
 - (B) has a right of access to the information; or
 - (C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or
- (3) by an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business of the governmental body.

Gov't Code § 552.002(a). Thus, virtually all of the information in a governmental body's physical possession constitutes public information and thus is subject to the Act. *Id.* § 552.002(a)(1); *see* Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988). Information is "in connection with the transaction of official business" if the information is created by, transmitted to, received by, or maintained by a person or entity performing official business or a government function on behalf of a governmental body and the information pertains to official business of the governmental body. *See* Gov't Code § 552.002(a-1). You state the submitted information was received and maintained by a university employee and relates to the employee's service as a member of the NCAA working group. You state the submitted information was either provided to or created by the employee in his capacity as a member of the NCAA working group, not as a university employee. Further, you state the employee's service in this group is not part of his official duties and does not pertain to the official business of the university. Based on your representations and our review, we find the information at issue does not constitute public information for purposes of the Act. *See* Gov't Code § 552.002; *see also* Open Records Decision No. 635 at 4 (1995) (section 552.002 not applicable to personal information unrelated to official business and created or maintained by state employee involving no or *de minimis* use of state resources). Therefore, the submitted information is not subject to the Act, and the university is not required to release it in response to this request.¹

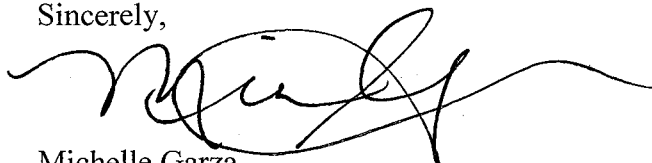
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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

¹ As we are able to make this determination, we need not address your remaining arguments against disclosure.

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 'Michelle Garza', with a long horizontal flourish extending to the right.

Michelle Garza
Assistant Attorney General
Open Records Division

MG/mo

Ref: ID# 790889

c: Requestor