



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 8, 2020

Ms. Lori J. Robinson
Counsel for Austin Community College
Bickerstaff, Heath, Delgado & Acosta, L. L. P.
3711 South MoPac Expressway, Building One, Suite 300
Austin, Texas 78746

OR2020-00689

Dear Ms. Robinson:

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# 805185 (ACC ORR 2057).

Austin Community College (the "college"), which you represent, received a request for information pertaining to a specified investigation during a specified time period. You state the college has released some information to the requestor. You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.117 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information, a portion of which is a representative sample.¹

Initially, we note some of the submitted information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2020-00226 (2020). In that ruling, we determined the college must (1) withhold some information under section 552.101 of the Government Code in conjunction with section 51.971(c) of the Education Code, (2) withhold some information under section 552.117(a)(1) of the Government Code, and (3) release the remaining information. We have no indication there has been any change in the law, facts, or circumstances on which the previous ruling was based. Accordingly, to the extent the submitted information is identical to the information previously requested and ruled upon by this office, we conclude the college must rely on Open Records Letter No. 2020-00226 as a previous determination and withhold or release the identical information in accordance with that ruling. *See* Open Records Decision

¹ We assume that 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 withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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 prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). However, to the extent the information in the instant request is not identical to the information ruled upon by this office in Open Records Letter No. 2020-00226, we will address your arguments against 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 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.

...

(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). You inform us the college 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 submitted information pertains to a completed compliance investigation that concluded in a determination that the complaint was substantiated. You also state release of some of the information at issue would directly or indirectly reveal the identities of those individuals participating in a compliance program investigation. Subsection (c) does not apply to information related to an individual who consents to disclosure of the information. *Id.* You further state none of the individuals whose information is at issue have consented to release of their information. Therefore, we agree the release of the information you marked and indicated would directly or indirectly identify individuals who participated in the investigation of the complaint. *See id.* § 51.971(c). Thus, the college must withhold the information you marked and indicated under section 552.101 of the Government Code in conjunction with section 51.971(c) of the Education Code.²

In summary, to the extent the submitted information is identical to the information previously requested and ruled upon by this office, we conclude the college must rely on Open Records Letter No. 2020-00226 as a previous determination and withhold or release the identical information in accordance with that ruling. The college must withhold the information you marked and indicated under section 552.101 of the Government Code in conjunction with section 51.971(c) of the Education Code. The college 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 <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,



Gerald A. Arismendez
Assistant Attorney General
Open Records Division

GAA/jxd

² As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.

Ref: ID# 805185

Enc. Submitted documents

c: Requestor
(w/o enclosures)