



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 14, 2020

Ms. Jennifer Burnett  
Senior Attorney & Public Information Coordinator  
Ms. Cynthia Tynan  
Assistant General Counsel & Public Information Coordinator  
The University of Texas System  
210 West 7th Street  
Austin, Texas 78701

OR2020-04710

Dear Ms. Burnett and 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# 811830 (OGC Nos. 193701 and 193962).

The University of Texas at Austin (the "university") received two requests from different requestors for documentation relating to complaints involving a named employee. The university states it is withholding student-identifying information 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. We have also considered comments submitted by the second requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

---

<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>.

Section 552.101 of the Government Code excepts from public disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 552.101. Section 552.101 encompasses section 51.971 of the Education Code, which provides, in relevant 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.

...

(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 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 submitted information relates to a closed compliance investigation that resulted in a determination the allegations were unsubstantiated. You further state the investigation was in response to allegations against a university employee and was initiated

in order to assess and ensure compliance with all applicable laws, rules, regulations, and policies. Upon review, we agree the information at issue relates to an investigation conducted under the university's compliance program. *See id.* § 51.971(a).

You assert the submitted information is confidential in its entirety due to the targeted nature of the request. You also inform us the relevant 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 submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 51.971(c)(2) 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,



Tim Neal  
Assistant Attorney General  
Open Records Division

TN/rm

Ref: ID# 811830

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)