



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 25, 2020

Ms. Cynthia Tynan  
Assistant General Counsel  
The University of Texas System  
210 West 7th Street  
Austin, Texas 78701

OR2020-09210

Dear 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# 818202 (OGC# 194534).

The University of Texas Health Sciences Center at Houston (the "university") received a request for information regarding allegations of academic misconduct filed against a named employee. 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 received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. This section encompasses section 51.971 of the Education Code. Section 51.971 of the Education Code 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.

(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 state the university is an institution of higher education under section 61.003 of the Education Code. *See id.* §§ 51.971(a)(2), 61.003. You explain the investigation was conducted by the university's Executive Vice President for Research. You state the investigation was initiated in response to a complaint of misconduct by a university employee and was conducted in order to assess and ensure compliance with all applicable laws, rules, regulations, and policies. Based on your representations, we find this information relates to an investigation conducted under the university's compliance program. *See id.* § 51.971(a)(1).

You assert the submitted information is confidential under section 51.971(c). 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 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 compliance investigation that concluded with a determination that the allegations were unsubstantiated.” You also state the release of the information at issue would directly or indirectly reveal the identities of individuals who made reports to the office, sought guidance from the office, or participated in the compliance program investigation and individuals who were alleged to have planned, initiated, or participated in activities that were the subject of the unsubstantiated allegations. Furthermore, you explain the requestor knows the identities of the individuals at issue. You inform us none of the individuals at issue consented to release of their information. Upon review, we agree release of the submitted information would directly or indirectly identify these individuals. *See id.* § 51.971(c). Accordingly, 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,

Sean McCormick  
Attorney  
Open Records Division

SMC/jxd

Ref: ID# 818202

Enc. Submitted documents

c: Requestor  
(w/o enclosures)