



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 17, 2020

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

OR2020-11226

Dear Mr. Olds:

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# 822858.

The Austin Community College (the "college"), which you represent, received a request for information pertaining to a specified investigation. You claim some of the submitted information is excepted from disclosure under section 552.101 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted information.

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:

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<sup>1</sup> We note the college did not comply with section 552.301 of the Government Code in requesting this decision. See Gov't Code § 552.301(b). Nonetheless, because section 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. See *id.* §§ 552.007, .302, .352.

- (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). We also state the submitted information pertains to a completed compliance investigation that concluded in a determination that the complaint was unsubstantiated. You assert release of some of the information at issue would directly or indirectly reveal the identities of those individuals participating in a compliance program investigation or the identity of an individual alleged to have committed the activity that is the subject of an unsubstantiated allegation. Subsection (c) does not apply to information related to an individual who consents to disclosure of the information. *Id.* You acknowledge the requestor is one of the individuals whose information is subject to section 51.971(c) of the Education Code, information pertaining solely to the requestor may not be withheld from him under section 552.101 of the Government Code in conjunction with section 51.971(c). *See id.* § 51.971(d). However, you state none of the remaining individuals whose information is at issue have consented to release of their information. Upon review, with the exception of the information we marked for release, we agree the information you marked and the information we marked would directly or indirectly identify individuals who participated

in the investigation of the complaint and the identities of the individual who was the subject of the unsubstantiated allegation. *See id.* § 51.971(c). Thus, with the exception of the information we marked for release, the college must withhold the information you marked and the information we marked under section 552.101 of the Government Code in conjunction with section 51.971(c) of the Education Code. However, the remaining information does not identify any individual as a participant in the investigation at issue or as an individual alleged to have committed the activity that is the subject of an unsubstantiated complaint. Accordingly, the college may not withhold any of the remaining information 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,

Emily Kunst  
Assistant Attorney General  
Open Records Division

EK/jxd

Ref: ID# 822858

Enc. Submitted documents

c: Requestor  
(w/o enclosures)