KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 20, 2020

Ms. Cynthia Tynan
Assistant General Counsel and Public Information Coordinator
The University of Texas System
210 West 7th Street
Austin, Texas 78701-2903

OR2020-29105

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# 854528 (OGC# 198584).

The University of Texas at Dallas (the "university") received a request for certain information pertaining to 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.

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. Section 552.101 encompasses information protected by other statutes, including section 51.971 of the Education Code. Section 51.971 of the Education Code provides, in relevant part, as follows:

> (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 conducted by the university's Office of Inclusion and Equity that resulted in a determination that the allegations were unsubstantiated. You also state the investigation was conducted in response to allegations of misconduct and was initiated in order to assess and ensure compliance with all applicable laws, rules, regulations, and policies. Upon review, we agree the submitted information relates to an investigation that was conducted under the university's compliance program. *See id.* § 51.971(a)(1).

You assert the submitted information is confidential in its entirety due to the targeted nature of the request. You inform us the relevant individuals at issue did not consent to release of their information. *See id.* § 51.971(d). Based upon 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 subsection 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,

Kimbell Kesling
Assistant Attorney General
Open Records Division

KK/rm

Ref: ID# 854528

Enc. Submitted documents

c: Requestor
(w/o enclosures)