



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 24, 2020

Ms. Ashlianne Burns  
Associate General Counsel  
Texas Southern University  
3100 Cleburne Street  
Houston, Texas 77004

OR2020-29411

Dear Ms. Burns:

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# 854526.

Texas Southern University (the "university") received a request for information pertaining to a specified report. You claim the submitted information is excepted from disclosure under sections 552.101, 552.111, and 552.116 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we must address the university's obligations under the Act. Pursuant to section 552.301(b), a governmental body must ask for a decision and state the exceptions that apply within ten business days of receiving the written request. *See* Gov't Code § 552.301(b). The university received the request for information on June 2, 2020. You inform us the university was closed from March 24, 2020, through September 7, 2020. This office does not count the date the request was received or holidays for the purpose of calculating a governmental body's deadlines under the Act. Therefore, for purposes of section 552.301, the university received the request for information on September 8, 2020. Thus, the university's ten-business-day deadline was September 22, 2020. However, the university did not state the exceptions that apply until September 25, 2020. *See id.* § 552.309(a) (requirement to submit information within specified time period under the Act is met in timely fashion if it is submitted through attorney general's designated electronic filing system within that period). Consequently, we find the university failed to comply with the requirements of section 552.301 in requesting a decision.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ). The university claims sections 552.101, 552.111, and 552.116 of the Government Code for the submitted information. Because section 552.101 can provide a compelling reason to overcome the presumption of openness, we will address your arguments under this section for the submitted information. However, we find you have failed to establish a compelling reason to address your remaining exceptions.

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 section 51.971 of the Education Code, which 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.

...

(e) Information is excepted from disclosure under [the Act] if it is collected or produced:

(1) in a compliance program investigation and releasing the information would interfere with an ongoing compliance investigation[.]

Educ. Code § 51.971(a), (e)(1). The university is an institution of higher education for purposes of section 61.003 of the Education Code. *See id.* § 51.971(a)(2). The university states the submitted information pertains to an ongoing investigation by the university

concerning allegations of “alleged violations of the Texas Uniform Admission Standards.” Based on these representations, we find the submitted information relates to an investigation conducted under the university’s compliance program for purposes of section 51.971. *See id.* § 51.971(a)(1). The university also represents the submitted information was collected or produced in the ongoing compliance investigation, and release of the information at this time would interfere with, and potentially compromise, the ongoing investigation. Accordingly, we conclude the university must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 51.971(e)(1) 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,

Jennifer Copeland  
Assistant Attorney General  
Open Records Division

JC/jm

Ref: ID# 854526

Enc. Submitted documents

c: Requestor  
(w/o enclosures)