



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 14, 2022

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

OR2022-01346

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# 925559 (OGC No. 203449).

The University of Texas Medical Branch at Galveston (the "university") received a request for information pertaining to complaints filed against named individuals during stated periods of time, specified witness statements from three named individuals, certain communications, and certain information pertaining to a specified meeting.<sup>1</sup> You state the university will release some information to the requestor. You claim some of 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. This section 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:

(a) In this section:

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<sup>1</sup> You state, and provide documentation demonstrating, the university sought and received clarification of the information requested. See Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

(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.

(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), (c)-(e)(1). You state 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 explain some of the information at issue, which you indicated, was collected or produced in an ongoing university compliance program investigation and assert release of the information at issue would interfere with the investigation. Based on your representations and our review, we conclude the university must withhold the information

you indicated under section 552.101 of the Government Code in conjunction with section 51.971(e)(1) of the Education Code.

Additionally, you assert release of some of the remaining information would directly or indirectly reveal the identities of individuals making reports to or participating in closed compliance program investigations. Further, you assert release of some of the information at issue would directly or indirectly reveal the identities of individuals who were alleged to have or may have planned, initiated, or participated in activities that are the subject of the investigations, when those allegations were unsubstantiated. You also assert the information you indicated is confidential in its entirety due to the targeted nature of the request. Subsection (c) does not apply to information related to an individual who consents to disclosure of the information. *Id.* § 51.971(d). We understand the relevant individuals at issue did not consent to release of their information. Upon review, we agree release of the information you marked and indicated would directly or indirectly reveal the identities of individuals who were alleged to have participated in activities that were the subject of closed investigations where the allegations were unsubstantiated, or the identities of individuals making reports to or participating in closed compliance program investigations. Accordingly, the university must withhold the information you marked and indicated under section 552.101 of the Government Code in conjunction with section 51.971(c) of the Education Code.

In summary, the university must withhold the information you indicated under section 552.101 of the Government Code in conjunction with section 51.971(e)(1) of the Education Code. The university must withhold the information you marked and indicated under section 552.101 of the Government Code in conjunction with section 51.971(c) of the Education Code. The university 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,

Blake Brennan  
Assistant Attorney General  
Open Records Division

BBX/eb

Ms. Cynthia Tynan - Page 4

Ref: ID# 925559

Enc. Submitted documents

c: Requestor  
(w/o enclosures)