



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 25, 2008

Ms. Katari D. Buck
Assistant General Counsel
Office of General Counsel
University of North Texas
P.O. Box 310907
Denton, Texas 76203-0907

OR2008-01150

Dear Ms. Buck:

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# 300398.

The University of North Texas (the "university") received a request for the requestor's personnel file, including records related to a sexual harassment investigation and information showing if the requestor is rehirable by the university. You state that you will provide some of the requested information to the requestor. You claim that the remaining requested information is excepted from disclosure under sections 552.101, 552.107, and 552.114 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

We note that the requested information is subject to a previous ruling issued by this office. On January 15, 2008, this office issued Open Records Letter No. 2008-00732 (2008), in which we ruled that the university could withhold privileged attorney-client communications

¹We assume that the representative sample of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

pursuant to rule 503 of the Texas Rules of Evidence; the university was to release the marked summary of the sexual harassment investigation; and the university could withhold the remaining information pertaining to the sexual harassment investigation under section 552.101 of the Government Code in conjunction with common-law privacy and the holding in *Morales v. Ellen*, , 840 S.W.2d 519 (Tex. App.—El Paso 1992, writ denied). We have no indication that the pertinent facts, law, and circumstances have changed since the issuance of that prior ruling. Thus, we determine that the district must continue to rely on our ruling in Open Records Letter No. 2008-00732 as a previous determination and withhold or release the information at issue in accordance with that ruling. *See* Open Records Decision No.673 (2001) (governmental body may rely on previous determination when the records or information at issue are precisely the same records or information that were previously submitted to this office pursuant to section 552.301(e)(1)(D); the governmental body which received the request for the records or information is the same governmental body that previously requested and received a ruling from the attorney general; the prior ruling concluded that the precise records or information are or are not excepted from disclosure under the Act; and the law, facts, and circumstances on which the prior ruling was based have not changed since the issuance of the ruling). As our ruling on this issue is dispositive, we need not address your arguments against disclosure.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can challenge that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Nancy E. Griffiths
Assistant Attorney General
Open Records Division

NEG/jb

Ref: ID# 300398

Enc. Submitted documents

c: Mr. Michael McElroy
c/o Ms. Katari D. Buck
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(w/o enclosures)