



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 29, 2010

Mr. Miles T. Bradshaw
Karczewski & Bradshaw, L.L.P.
5847 San Felipe, Suite 1900
Houston, Texas 77057

OR2010-09551

Dear Mr. Bradshaw:

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# 384672.

The Houston Community College System (the "system"), which you represent, received a request for all documents pertaining to meetings during which discussion was held on a specified subject matter, as well as all documents pertaining to policy regarding conflict of interests. You state you have released some of the requested information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101, 552.103, 552.107, 552.108, 552.111, 552.116, and 552.135 of the Government Code.¹ We have considered the exceptions 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

¹We note in your brief dated May 3, 2010, you have withdrawn your remaining assertions under the Act. Additionally, although you raise section 552.101 of the Government Code in conjunction with rule 503 of the Texas Rules of Evidence and rule 192.5 of the Texas Rules of Civil Procedure, this office has concluded section 552.101 does not encompass discovery privileges. *See* Open Records Decision Nos. 676 at 1-2 (2002), 575 at 2 (1990). Thus, we will not address your claim the submitted information is confidential under section 552.101 in conjunction with any of these rules. We note your attorney-client and attorney work product privilege claims are properly addressed under sections 552.107 and 552.111 of the Government Code, respectively.

Code § 552.101. Section 552.101 of the Government Code encompasses section 51.971 of the Education Code, which provides in part:

(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.

...

(e) Information produced in a compliance program investigation the release of which would interfere with an ongoing compliance investigation is excepted from disclosure under Chapter 552, Government Code.

Educ. Code § 51.971(a), (e). Section 51.971 defines a compliance program as a process to assess and ensure compliance by officers and employees of an institution of higher education. *Id.* § 51.971(a)(1). You state the submitted information pertains to a complaint regarding a potential conflict of interest involving one of the system's board of trustees. You further state, in response to the complaint, the system investigated as part of its compliance program potential conflicts of interest between trustees, certain executive administrators, and outside contractors. You state the potential conflicts involved ethical standards of conduct as stated in both Chapter 176 of the Local Government Code and the system's board bylaws and policies. Based on your representations and our review, we agree that the submitted information pertains to the system's compliance program for purposes of section 51.971. *See id.* § 51.971(a).

You seek to withhold the submitted information in its entirety under section 51.971(e). This section requires (1) there be an ongoing compliance program investigation, and that (2) release of the records at issue would interfere with such investigation. *Id.* § 51.971(e). You inform this office, and provide documentation showing, that the submitted information pertains to an ongoing compliance investigation by the system. You further assert that release of the submitted information at this time would interfere with the investigation. Accordingly, we conclude the system must withhold the submitted information in its entirety

under section 552.101 of the Government Code in conjunction with section 51.971(e) of the Education Code. As our ruling is dispositive, we need not address your remaining arguments against disclosure.

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 http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Adam Leiber
Assistant Attorney General
Open Records Division

ACL/tp

Ref: ID# 384672

Enc. Submitted documents

c: Requestor
(w/o enclosures)