



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 5, 2011

Ms. Neera Chatterjee  
Office of the General Counsel  
The University of Texas System  
201 West Seventh Street  
Austin, Texas 78701-2902

OR2011-09418

Dear Ms. Chatterjee:

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# 422687 (OGC #136998).

The University of Texas at Austin (the "university") received a request for information related to the men's basketball coaching staff and administrators during a specified time period, to include certain e-mails, telephone and mobile device records, and scheduling records. You state that the university is releasing some of the requested information with redactions in accordance with the Family Educational Rights and Privacy Act ("FERPA"), section 1232g of title 20 of the United States Code.<sup>1</sup> You claim that 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 representative sample

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<sup>1</sup>The United States Department of Education Family Policy Compliance Office (the "DOE") has informed this office that FERPA does not permit state and local educational authorities to disclose to this office, without parental consent, unredacted, personally identifiable information contained in education records for the purpose of our review in the open records ruling process under the Act. The DOE has determined that FERPA determinations must be made by the educational authority in possession of the education records. We have posted a copy of the letter from the DOE to this office on the Attorney General's website: <http://www.oag.state.tx.us/open/20060725usdoe.pdf>.

of information.<sup>2</sup> We have also considered comments submitted by an attorney for the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

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. You inform this office that Rule 13.10 of the National Collegiate Athletic Association (the "NCAA") expressly prohibits the university from releasing details regarding a high school prospect, including the athletic ability or possible contribution to the university team of a prospect, the coach's evaluation or rating of the prospect, or the likelihood of the prospect signing with the university. You provided a copy of Rule 13.10, entitled "Publicity." Rule 13.10.2 provides in part:

13.10.2. Comments Before Signing. Before the signing of a prospective student-athlete to a National Letter of Intent or an institution's written offer of admission and/or financial aid, a member institution may comment publicly only to the extent of confirming its recruitment of the prospective student-athlete. The institution may not comment generally about the prospective student-athlete's ability or the contribution that the prospective student-athlete might make to the institution's team; further, the institution is precluded from commenting in any manner as to the likelihood of the prospective student-athlete's signing with that institution.

NCAA Bylaw § 13.10.2. *See also* Open Records Decision No. 462 at 7 (1987) (member institution is answerable to NCAA for violations of its rules by student athletes and personnel). You also point out that section 9 of article III of the General Appropriations Act requires the university to make "rules and adjustments [that] specifically prohibit violation of the [NCAA] or other governing body rules with respect to recruitment of athletes."<sup>3</sup> You advise us that policy 2.0 of the university's athletics compliance policy specifically mandates adherence to NCAA rules and regulations. You state that the submitted information contains references to prospective student-athletes who have not signed letters of intent. Having considered your arguments and the documentation you submitted, we find you have shown that the university is prohibited by law from releasing the submitted information. Therefore, the submitted information must be withheld from disclosure under section 552.101 of the Government Code as information made confidential by law. *See* Open Records Decision

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<sup>2</sup>We 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.

<sup>3</sup>*See* General Appropriations Act, Act of May 30, 2009, 81st Leg., R.S., ch. 1424, art. III, § 9, 2009 Tex. Gen. Laws, 4485, 4951.

No. 584 at 3 (1991) (provisions of law that prohibit release of information bring it within scope of section 552.101).

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](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,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

Ref: ID# 422687

Enc. Submitted documents

c: Requestor  
(w/o enclosures)