



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 11, 2011

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

OR2011-09817

Dear Ms. Angadicheril:

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# 423362 (OGC# 137047).

The University of Texas Medical Branch at Galveston (the "university") received a request for a report pertaining to a specified grievance filed by the requestor. You claim 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. We have also received and considered comments submitted by the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit written comments regarding 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." *Id.* § 552.101. This exception encompasses information other statutes make confidential, such as section 51.971 of the Education Code. Section 51.971 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.

...

(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.

Educ. Code § 51.971(a), (c), (d). You state that in response to a complaint to which the submitted information pertains, the university “initiated its internal process of review to assess and ultimately, ensure that its employees complied with all applicable laws, rules, regulations, and policies.” Thus, we agree the submitted information pertains to the university’s compliance program for the purposes of section 51.971. *See id.* § 51.971(a). You state none of the individuals involved in these reports as complainants or participants have consented to release of their information. *See id.* § 51.971(d).

You seek to withhold the submitted information in its entirety under section 51.971(c). Section 51.971(c)(1) makes confidential information that identifies individuals as complainants, as having sought guidance from a compliance program, or as participants in an investigation conducted under a compliance program. *Id.* § 51.971(c)(1). Section 51.971(c)(2) makes confidential information that identifies individuals alleged to have committed the activities that are the subject of a complaint made to a compliance program office if the office determines the report is unsubstantiated. *Id.* § 51.971(c)(2). However, subsection (c) does not apply to information related to an individual who consents to disclosure of the information. *Id.* § 51.971(d). You state the investigation at issue concluded

in a determination the complaint was unsubstantiated or without merit. Upon review, we find portions of the submitted information identify individuals as participants in the compliance program investigations or individuals alleged to have committed the activities that are the subject of the unsubstantiated complaint. As noted above, you state these individuals have not consented to release of their information; however, we note the requestor is the complainant at issue. Thus, pursuant to section 51.971(d), we find the requestor has a right of access to his information and it may not be withheld under section 51.971(c)(1). *Cf.* Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Upon review of the remaining information, we find the university must withhold the information we have marked under section 552.101 in conjunction with section 51.971(c). However, you have failed to demonstrate how the remaining information identifies a complainant, participant, or an individual alleged to have committed the activity which is the subject of the complaint for purposes of section 51.971(c). Consequently, no portion of the remaining information may be withheld under section 552.101 in conjunction with section 51.971(c). As you raise no other exceptions against the disclosure of the remaining information, it must be released to the requestor.<sup>1</sup>

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,



Ana Carolina Vieira  
Assistant Attorney General  
Open Records Division

ACV/sdk

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<sup>1</sup>Because the requestor has a special right of access to the information being released, the university should again seek a decision from this office if it receives another request for this particular information from a different requestor.

Ref: ID# 423362

Enc. Submitted documents

c: Requestor  
(w/o enclosures)