



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 18, 2011

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

OR2011-10178

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# 424156 (OGC# 137244).

The University of Texas Medical Branch at Galveston (the "university") received a request for (1) copies of all complaints directed against the requestor's client and (2) copies of all documents reflecting the client's non-compliance with institutional compliance guidelines. You state the university does not maintain information responsive to the second part of the request.¹ You state the university will release some of the information that is responsive to the first part of the request. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.151 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note you have marked portions of the submitted information that do not pertain to the requestor's client. Further, we have marked information that documents a scheduled appointment. The requestor seeks only the complaints against his client. As the information you have marked does not pertain to the requestor's client, and the information we have marked does not constitute a complaint, this information is not responsive to the request. This ruling does not address the availability of non-responsive information, and the university is not required to release information that is not responsive to the request.

¹The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1–2 (1990), 452 at 3 (1986), 362 at 2 (1983).

Section 552.101 of the Government Code excepts from public disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. Section 552.101 encompasses section 51.971 of the Education Code, which provides:

(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.

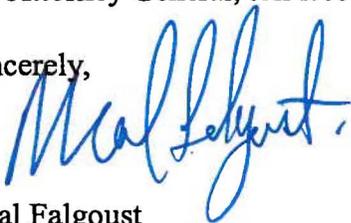
Educ. Code § 51.971(a), (c)–(d). You state the submitted information pertains to a completed investigation concerning ethical questions and standards of conduct of the requestor’s client that was undertaken by the university’s Office of Human

Resources—Employee Relations and the Office of Institutional Compliance. You state the investigation was in response to employee complaints against the requestor's client and was initiated in order to assess and ensure compliance with all applicable laws, rules, regulations, and policies. We agree the submitted information relates to an investigation conducted under the university's compliance program. *See id.* § 51.971(a). You explain the individuals who participated in and provided information for the investigation work with the requestor's client in small groups and, thus, the requestor's client has knowledge of the events at issue and each individual's involvement in those events. Further, you provide a statement from a supervisor who explains that releasing the submitted information would directly or indirectly reveal the identity of those individuals who participated in the investigation or provided information because the requestor's client knows each person's involvement in the events at issue. You state that none of the individuals who made the complaint and/or participated in the investigation have consented to the disclosure of their identifying information. Based on these representations and our review, we agree that release of the submitted information would directly or indirectly reveal the identity of the individuals who participated in the investigation. Accordingly, the submitted responsive information is confidential under section 51.971 of the Education Code and must be withheld under section 552.101 of the Government Code.²

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,



Neal Falgoust
Assistant Attorney General
Open Records Division

NF/dls

²As our ruling is dispositive, we do not address your remaining arguments against disclosure.

Ref: ID# 424156

Enc. Submitted documents

c: Requestor
(w/o enclosures)