ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 16, 2011

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

OR2011-13446

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# 430169 (OGC# 138286).

The University of Texas at Austin (the "university") received a request for the personnel file, records regarding possible misconduct, and all documents previously provided to a named newspaper pertaining to a named individual. You state the university has redacted student-identifying information from the information submitted to this office pursuant to the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g(a).[1] You claim some of the requested information is not subject to the Act and some of the information is subject to previous determinations issued by this office. You also claim the requested information is excepted from disclosure under sections 552.101, 552.107, 552.136,

[1]The United States Department of Education Family Policy Compliance Office (the "DOE") has informed this office 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 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.

and 552.137 of the Government Code. We have considered your arguments and reviewed the submitted representative sample of information.[2]

Initially, you assert the University of Texas Electronic Identification Numbers ("UTEIDs") contained in the requested records are not subject to the Act. In Open Records Decision No. 581 (1990), this office determined certain computer information, such as source codes, documentation information, and other computer programming, that has no significance other than its use as a tool for the maintenance, manipulation, or protection of public property is not the kind of information made public under section 552.021 of the Government Code. You inform our office that, when combined with an individual's password, the UTEID serves as "the required log on protocol to access the computer mainframe, the [u]niversity's centralized hub that runs all its high-level electronic functions." You indicate the UTEIDs are used solely to access the university's computer mainframe and have no other significance other than their use as tools for the maintenance, manipulation, or protection of public information. Based on your representations and our review, we find the UTEIDs contained in the requested records do not constitute public information under section 552.002 of the Government Code. We, therefore, conclude the UTEIDs are not subject to the Act and need not be released to the requestor.

Next, you state some of the requested information was the subject of previous requests for rulings, as a result of which this office issued Open Records Letter Nos. 2011-13021 (2011), 2011-12210 (2011), 2011-05767 (2011), 2011-05608 (2011), 2011-04036 (2011), 2011-00488 (2011), 2011-00418 (2011), and 2011-00356 (2011). As we have no indication the law, facts, or circumstances on which the prior rulings were based have changed, we conclude the university must continue to rely on these rulings as previous determinations and withhold or release the previously ruled upon information in accordance with the prior rulings. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). We will consider your arguments for the remaining requested information, which is not subject to the prior rulings.

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. This exception encompasses information other statutes make confidential, such as section 51.971 of the Education Code, which provides, in part:

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[2]We assume 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 those records contain substantially different types of information than that submitted to this office.

> (e) Information is excepted from disclosure under [the Act] if it is collected or produced:
>
> > (1) in a compliance program investigation and releasing the information would interfere with an ongoing compliance investigation[.]

Act of May 17, 2011, 82nd Leg., R.S., S.B. 1327, § 1 (to be codified at Educ. Code § 51.971(e)(1)). 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. Educ. Code § 51.971(a)(1). You state the requested information pertains to a complaint and subsequent investigation pertaining to "ethical questions and standards of conduct relating to employees of the [u]niversity." You also state the purpose of the investigation is to "assess and ultimately ensure that [the university's] employees complied with all applicable law, rules, regulations, and policies." Based on your representations and our review, we agree the information at issue pertains to the university's compliance program for purposes of section 51.971. *See id.* § 51.971(a). You inform this office the information at issue pertains to an ongoing compliance investigation by the university. You also represent release of the information at this time would interfere with, and potentially compromise, that investigation. Accordingly, we conclude the university must withhold the remaining requested information under section 552.101 of the Government Code in conjunction with section 51.971(e)(1) of the Education Code.[3]

In summary, the UTEIDs are not subject to the Act and the university need not release them to the requestor. The university must continue to rely on Open Records Letter Nos. 2011-13021, 2011-12210, 2011-05767, 2011-05608, 2011-04036, 2011-00488, 2011-00418, and 2011-00356 as previous determinations and withhold or release the previously ruled upon information in accordance with the prior rulings. The university must withhold the remaining information under section 552.101 of the Government Code in conjunction with section 51.971(e)(1) of the Education Code.

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

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[3]As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

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,

Leah B. Wingerson

Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

Ref: ID# 430169

Enc. Submitted documents

c: Requestor
(w/o enclosures)