



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 12, 2011

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

OR2011-14833

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# 432926 (OGC # 138820).

The University of Texas Medical Branch at Galveston (the "university") received a request for the requestor's personnel file. You state you are releasing most of the requested information. You claim the remaining information is excepted from disclosure under sections 552.101 and 552.152 of the Government Code.<sup>1</sup> We have considered the exceptions 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).

We note you have marked portions of the submitted information as not responsive to the request. The present request seeks the complete personnel file of the requestor. Upon review, we understand the information at issue is maintained in the requestor's personnel file. Thus, we find the information at issue is responsive to the present request. Accordingly, we will address your arguments against disclosure of the submitted information.

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."

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<sup>1</sup> Although you claim the information is excepted under section 552.151 of the Government Code, we note the 82nd Texas Legislature renumbered section 552.151 to section 552.152 of the Government Code. Act of May 9, 2011, 82nd Leg., R.S., S.B. 1303, § 27.001(20).

*Id.* § 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 that was undertaken by the university’s Office of Human Resources–Correctional Managed Care. You state the investigation was in response to employee complaints against the requestor 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 in small groups and, thus, the requestor 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 identities of those individuals who participated in the investigation or provided information because the requestor 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 information is confidential under section 51.971 of the Education Code and must be withheld under section 552.101 of the Government Code.<sup>2</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,



Paige Lay  
Assistant Attorney General  
Open Records Division

PL/ag

Ref: ID# 432926

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)

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<sup>2</sup>As our ruling is dispositive, we do not address your remaining argument against disclosure.