



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 12, 2011

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

OR2011-18254

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# 437334 (OGC# 139713).

The University of Texas Southwestern Medical Center (the "university") received a request for fourteen categories of information.¹ You state you do not have information responsive to categories seven through fourteen of the request.² You state you have released some information to the requestor. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.102 of the Government Code. We have considered the exceptions you claim and reviewed 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." Gov't Code § 552.101. Section 552.101 encompasses section 51.971 of the Education Code, which provides:

(a) In this section:

¹You state the university sought and received clarification of the request. *See* Gov't Code § 552.222(b) (governmental body may communicate with the requestor for purpose of clarifying or narrowing request for information).

²The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dism'd); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

(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

...

(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)(1), (d). You state the submitted information pertains to a completed investigation undertaken by the university's Employee Relations Division of the Office of Human Resources. You state the investigation was in response to allegations against a university employee 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 releasing the submitted information would directly or indirectly reveal the identity of those individuals making a report to, seeking guidance from, or participating in a compliance program investigation. Based on your representations and our review, we agree release of some of the submitted information, which we have marked, would directly or indirectly reveal the identity of the individuals who made complaints or participated in the investigation at issue and did not consent to disclosure of their information. Thus, the university must withhold this marked information under section 552.101 of the Government

Code in conjunction with section 51.971(c)(1) of the Education Code.³ We note the requestor is one of the individuals whose information is subject to section 51.971(c). Thus, pursuant to section 51.971(d), we find the requestor has a right of access to her information and it may not be withheld under section 51.971(c). *Cf.* Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). Furthermore, we find you have failed to demonstrate how the remaining information directly or indirectly reveals the identity of a complainant, an individual who sought guidance, or a participant in a compliance program investigation for purposes of section 51.971(c). Consequently, no portion of the remaining information may be withheld on that basis. As no further exceptions to disclosure have been raised, the remaining information must be released.⁴

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,



Nneka Kanu
Assistant Attorney General
Open Records Division

NK/em

Ref: ID# 437334

Enc. Submitted documents

cc: Requestor
(w/o enclosures)

³As our ruling is dispositive, we need not address your remaining argument against disclosure.

⁴Because the requestor has a special right of access to some of the information being released, the university must again seek a ruling from this office if it receives another request for this information from a different requestor.