



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 3, 2012

Mr. R. Brooks Moore
Managing Counsel, Governance
Office of General Counsel
The Texas A&M University System
301 Tarrow Street, Sixth Floor
College Station, Texas 77840-7896

OR2012-00034

Dear Mr. Moore:

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# 441065 (2011065).

Texas A&M University - Commerce, a component university of the Texas A&M University System (the "system"), received a request for any complaints or inquiries pertaining to a particular instructor, "including any inquiry or other correspondence about [the instructor's] academic credentials[.]" You claim that the requested 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.

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. This exception encompasses information other statutes make confidential, such as section 51.971 of the Education Code, which 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 the marked information in Exhibit B pertains to “a breach of standards of conduct/ethics reported to [a system compliance program office] via a hotline[.]” Thus, we agree the information at issue pertains to the system’s compliance program for the purposes of section 51.971. *See id.* § 51.971(a). You state the information at issue reveals the identity of the person subject to the allegation, which, after an investigation, was found to be without merit. We understand the individual has not consented to release of any identifying information. *See id.* § 51.971(d). Accordingly, the system must withhold the identifying information we have marked under section 552.101 in conjunction with section 51.971(c)(2) of the Education Code. However, you have failed to demonstrate how the remaining information you have marked identifies an individual who is the subject of the allegation for purposes of section 51.971(c)(2). Consequently, you have failed to show the remaining information is confidential under section 51.971(c), and it may

not be withheld on that basis. As you raise no further arguments against disclosure, you must release the remaining information at issue.

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 441065

Enc. Submitted documents

c: Requestor
(w/o enclosures)