



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 26, 2012

Ms. Jennifer E. Bloom  
Senior Assistant General Counsel  
University of Houston System  
311 E. Cullen Building  
Houston, Texas 77204-2028

OR2012-04389

Dear Ms. Bloom:

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# 448615.

The University of Houston (the "university") received a request for (1) a copy of the Policy and Procedure Guidelines of the university regarding use of defamatory statements directed towards another co-worker while being employed by the university; (2) a copy of the last three employee performance appraisals for two named employees; and (3) a copy of the two named employees current and previous job descriptions, titles, and positions. You claim that the submitted information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>1</sup>

We note the submitted information consists of information that is subject to section 552.022 of the Government Code. This section provides, in relevant part:

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<sup>1</sup>We assume the "representative sample" of information 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 those submitted to this office.

(a) [T]he following categories of information are public information and not excepted from required disclosure unless made confidential under [the Act] or other law:

(1) a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108;

...

(2) the name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of a governmental body;

...

(13) a policy statement or interpretation that has been adopted or issued by an agency [and]

...

(15) information regarded as open to the public under an agency's policies[.]

Gov't Code § 552.022(a)(1), (2), (13), (15). In this instance, the submitted information consists of (1) completed employee evaluations in Exhibit 5, (2) job titles in Exhibit 5, (3) policies adopted by the university pertaining to the discipline and dismissal of regular staff employees in Exhibit 4, and (4) job descriptions in Exhibit 5. Because job descriptions are available on the university's website, we find that the submitted job descriptions are regarded as open to the public under the university's policies and are therefore subject to section 552.022(a)(15). The submitted information in Exhibits 4 and 5 is subject to sections 552.022(a)(1), (2), (13), and (15), respectively. The completed evaluations in Exhibit 5 must be released pursuant to section 552.022 unless they are expressly confidential under the Act or other law or are excepted from disclosure by section 552.108. The remaining information must be released unless it is expressly confidential under the Act or other law. You assert that the submitted information is excepted from disclosure by section 552.103 of the Government Code. However, section 552.103 is a discretionary exception to disclosure that protects only the governmental body's interests and may be waived. *See id.* § 552.007; *Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions generally). As such, section 552.103 does not make information confidential under the Act.

Therefore, the submitted information may not be withheld on this basis. As you raise no further exceptions to disclosure of submitted information, the university must release it.

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,

A handwritten signature in cursive script that reads "Sean Opperman".

Sean Opperman  
Assistant Attorney General  
Open Records Division

SO/dls

Ref: ID# 448615

Enc. Submitted documents

c: Requestor  
(w/o enclosures)