



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 26, 2012

Mr. R. Brooks Moore
Managing Counsel, Governance
Office of the General Counsel
The Texas A&M University System
301 Tarrow Street, 6th Floor
College Station, Texas 77480-7896

OR2012-06027

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# 451777.

Texas A&M University - Texarkana (the "university") received a request for (1) correspondence regarding a visit from Texas A&M University System or Texas State auditors that occurred during a specified time period, (2) exit documents, grievances, complaints, or correspondence related to a risk, fraud, or misconduct complaint related to a financial or accounting audit that occurred during a specified time period, (3) schedules for regular visits from auditors during the 2011-2012 school year, and (4) the 2012 Spring enrollment count for the 2011-2012 school year. You claim the submitted 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.

Initially, we note you have not submitted information pertaining to schedules for regular visits from auditors for the 2011-2012 school year or the 2012 Spring enrollment count for the 2011-2012 school year. To the extent any information responsive to these portions of the request existed on the date the university received the request, we assume you have released it. If you have not released such information, you must do so at this time. *See Gov't Code § 552.301(a), .302; see also Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).*

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Section 552.101 encompasses section 51.971 of the Education Code, which provides in relevant part the following:

(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.

(2) “Institution of higher education” has the meaning assigned by Section 61.003.

...

(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[.]

Educ. Code § 51.971(a), (e)(1). You state the submitted information pertains to ongoing compliance investigations being conducted in response to two allegations of breaches of standards of conduct/ethics reported anonymously to a Texas A&M University System hotline. You state the investigations are being undertaken by two Texas A&M University System departments that are part of the system’s compliance program. Based on your representations, we find this information relates to investigations conducted under the university’s compliance program. *See id.* § 51.971(a)(1). You assert release of the information pertaining to the ongoing compliance investigations would interfere with the investigations. Accordingly, we conclude the university must withhold the information pertaining to the pending investigations 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 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,



Kristi L. Wilkins
Assistant Attorney General
Open Records Division

KLW/bhf

Ref: ID# 451777

Enc. Submitted documents

c: Requestor
(w/o enclosures)