



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 10, 2012

Mr. R. Brooks Moore
Managing Counsel
Texas A&M University System
301 Tarrow Street, 6th Floor
College Station, Texas 77840

OR2012-12609

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# 461551 (TAMU 12-255).

Texas A&M University (the "university") received a request for information related to ethics complaints, non-ethics complaints, and academic appeals for a specified time period.¹ You have redacted information pursuant to the Family Educational Rights and Privacy Act ("FERPA"), section 1232g of title 20 of the United States Code.² You claim that portions of the submitted information are excepted from disclosure under section 552.101 of the

¹You note that the university sought and received clarification of the information requested. See Gov't Code § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request); see also *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

²The United States Department of Education Family Policy Compliance Office (the "DOE") has informed this office FERPA does not permit state and local educational authorities to disclose to this office, without parental consent, unredacted, personally identifiable information contained in education records for the purpose of our review in the open records ruling process under the Act. The DOE has determined FERPA determinations must be made by the educational authority in possession of the education records. We have posted a copy of the letter from the DOE to this office on the Attorney General's website: <http://www.oag.state.tx.us/open/20060725usdoe.pdf>.

Government Code. We have considered the exception you claim and reviewed the submitted representative sample information.³

Section 552.101 of the Government Code exempts 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:

(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

³We assume that the "representative sample" of records 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 that those records contain substantially different types of information than that submitted to this office.

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 undertaken by university administrators who are part of the university's compliance program. Upon review, we agree the information at issue relates to an investigation conducted under the university's compliance program. *See id.* § 51.971(a).

You inform us the investigation concluded in a determination the allegations were "without merit" for purposes of section 51.971(c)(2). Upon review, we agree portions of the submitted information directly or indirectly identify individuals as participants in the compliance program investigations or an individual alleged to have committed the activities that are the subject of the unsubstantiated complaint. We understand these individuals have not consented to release of their information. Thus, the university must withhold the information you have marked, in addition to the information we have marked, under section 552.101 in conjunction with section 51.971(c). As no further exceptions are raised, the remaining information must be released.

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,



Vanessa Burgess
Assistant Attorney General
Open Records Division

VB/akg

Ref: ID# 461551

Enc. Submitted documents

c: Requestor
(w/o enclosures)