



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 12, 2012

Mr. Ronny H. Wall
Associate General Counsel
Texas Tech University System
P.O. Box 42021
Lubbock, Texas 79409-2021

OR2012-16350

Dear Mr. Wall:

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# 468766.

Texas Tech University (the "university") received a request for all personal e-mails sent to or from a named employee and all evaluations for the same employee.¹ You state the university has released the requested evaluations. You assert the submitted information is not subject to the Act. In the alternative, you claim the submitted information is excepted from disclosure under sections 552.101, 552.117, 552.137, and 552.147 of the Government Code. We have considered your arguments and reviewed the submitted representative sample of information.² We have also considered comments submitted by an attorney for the named employee. *See* Gov't Code § 552.304 (interested party may submit comments to this office stating why the information at issue should or should not be released).

The Act is applicable to "public information." *See* Gov't Code § 552.021. Section 552.002 of the Act provides that "public information" consists of "information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business: (1) by a governmental body; or (2) for a governmental body and the

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

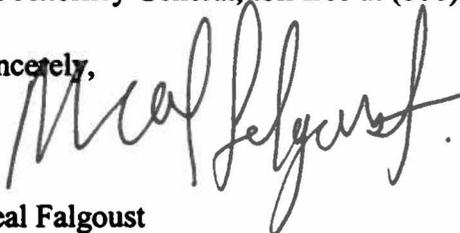
²We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than those submitted to this office.

governmental body owns the information or has a right of access to it.” *Id.* § 552.002(a). You inform us the submitted information consist of personal e-mail communications that have no connection with university business and represent incidental use of university e-mail by a university employee. After reviewing the information at issue, we agree the submitted information does not constitute “information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business” by or for the university. *See id.* § 552.021; *see also* Open Records Decision No. 635 (1995) (statutory predecessor not applicable to personal information unrelated to official business and created or maintained by state employee involving *de minimis* use of state resources). Therefore, we agree the submitted information is not subject to the Act, and the university need not release it in response to this request. As we are able to make this determination, we do not address your claimed exceptions.

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,



Neal Falgoust
Assistant Attorney General
Open Records Division

NF/ag

Ref: ID# 468776

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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