



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 3, 2013

Ms. Zeena Angadicheril
Office of General Counsel
The University of Texas System
201 West Seventh Street
Austin, Texas 78701-2902

OR2013-09156

Dear Ms. Angadicheril:

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# 489806 (University OGC# 149253).

The University of Texas at Austin (the "university") received a request for all correspondence or e-mails between the university and the National College Athletic Association concerning potential rules violations by members of the women's track team and a named individual during a specified time period. You state the university is releasing some information. You also state the university will withhold student-identifying information pursuant to the Family Educational Rights and Privacy Act ("FERPA"), section 1232g of title 20 of the United States Code.¹ You claim the remaining requested information is excepted from disclosure under sections 552.101 and 552.103 of the Government Code. We

¹The United States Department of Education Family Policy Compliance Office (the "DOE") has informed this office that 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 that 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>.

have considered the exceptions you claim and reviewed the submitted representative sample of information.²

Initially, you state some of the remaining requested information, which you have marked, was the subject of previous requests for information, as a result of which this office issued Open Records Letter Nos. 2013-06699 (2013) and 2013-06771 (2013). As we have no indication the law, facts, or circumstances upon which the prior rulings were based have changed, the university must continue to rely on Open Records Letter Nos. 2013-06699 and 2013-06771 as previous determinations and withhold or release the information at issue in accordance with those rulings. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes information is or is not excepted from disclosure).

Section 552.101 of the Government Code exempts from 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:

(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(e)(1). Section 51.971 defines a compliance program as a process to assess and ensure compliance by officers and employees of an institution of higher education with applicable laws, rules, regulations, and policies. *Id.* § 51.971(a)(1). You assert the remaining information at issue pertains to an investigation into allegations of employee misconduct. You state the investigation is being conducted by the university’s Associate Vice President for Legal Affairs. You further state the purpose of the review is to assess and ultimately ensure that the university has complied with all applicable law, rules, regulations, and policies. Based on your representations and our review, we agree the remaining information at issue pertains to the university’s compliance program for purposes of section 51.971. *See id.* § 51.971(a). You inform this office the remaining information at

²We 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.

issue pertains to an ongoing compliance investigation involving personnel matters by the university. You also represent release of the information at this time would interfere with, and potentially compromise, that investigation. Accordingly, we conclude the university must withhold the remaining information at issue under section 552.101 of the Government Code in conjunction with section 51.971(e)(1) of the Education Code.³

In summary, the university must continue to rely on Open Records Letter Nos. 2013-06699 and 2013-06771 as previous determinations and withhold or release the information you have marked in accordance with those rulings. The university must withhold the remaining information at issue 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,



Sean Nottingham
Assistant Attorney General
Open Records Division

SN/tch

Ref: ID# 489806

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³As our ruling is dispositive, we need not address your remaining argument against disclosure.