



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 8, 2014

Ms. Cynthia Tynan
Attorney and Public Information Coordinator
The University of Texas System
201 West Seventh Street
Austin, Texas 78701-2902

OR2014-11649

Dear Ms. Tynan:

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# 528339 (University OGC# 155760).

The University of Texas at Austin (the "university") received a request for any and all e-mails between a named university employee and any University of California official during a specified time period. You state you have released some of the requested information. You claim the submitted information is not subject to the Act. We have considered your arguments and reviewed the submitted information.

You argue the submitted information is not subject to the Act. The Act is applicable only to "public information." *See* Gov't Code §§ 552.002, .021. Section 552.002(a) defines "public information" as

[I]nformation that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

- (1) by a governmental body;
- (2) for a governmental body and the governmental body:

(A) owns the information;

(B) has a right of access to the information; or

(C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or

(3) by an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business of the governmental body.

Id. § 552.002(a). Thus, virtually all of the information in a governmental body's physical possession constitutes public information and thus is subject to the Act. *Id.*; *see also* Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988). Information is subject to the Act even if a governmental body does not physically possess it as long as it is written, produced, collected, assembled, or maintained for the governmental body and the governmental body owns the information or has a right of access to it. Gov't Code § 552.002(a)(2); *see* Open Records Decision No. 462 at 4 (1987). Thus, information written, produced, collected, assembled, or maintained by a third party may be subject to disclosure under the Act if a governmental body owns or has a right of access to the information. *See* ORD 462; *cf.* ORD 499.

You inform us the information at issue consists of communications related to the named individual's membership with the University of California Irvine's Western Association of Schools and Colleges Reaccreditation Committee ("WASC"). You state the communications are between the named individual in his capacity as a WASC member and other WASC members and pertain solely to WASC business. You further state this information is not collected, assembled, or maintained pursuant to any law or ordinance or in connection with the transaction of university business. You inform us the university has a policy that allows for incidental use of e-mail, and you state the expenditure of state resources to create the information was *de minimis*. Based on your representations and our review of the information at issue, we find the submitted information does not constitute public information for purposes of section 552.002 of the Government Code. *See* Open Records Decision No. 635 at 4 (1995) (section 552.002 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 conclude the submitted information is not subject to the Act and need not be released in response to the present request for information.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Lee Seidlits", with a long horizontal flourish extending to the right.

Lee Seidlits
Assistant Attorney General
Open Records Division

CLS/tch

Ref: ID# 528339

Enc. Submitted documents

c: Requestor
(w/o enclosures)