



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 15, 2014

Mr. Barry L. Macha
General Counsel
Office of the General Counsel
Midwestern State University
3410 Taft Boulevard
Wichita, Texas 76308-2099

OR2014-22624

Dear Mr. Macha:

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# 546868.

Midwestern State University (the "university") received a request for information pertaining to an online survey, including the comments received and names of potential candidates for the university's new president. You state some information was released to the requestor. You claim portions of the submitted information are excepted from disclosure under section 552.123 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, you state the requestor agreed the university may redact identifying information of individuals who responded to the specified survey. Thus, these portions of the requested information are not responsive to the present request. This ruling does not address the public availability of any information that is not responsive to the request, and the university is not required to release any such information in response to the request.

Section 552.123 of the Government Code excepts from required public disclosure:

The name of an applicant for the position of chief executive officer of an institution of higher education, and other information that would tend to identify the applicant, . . . except that the governing body of the institution must give public notice of the name or names of the finalists being

considered for the position at least 21 days before the date of the meeting at which final action or vote is to be taken on the employment of the person.

Gov't Code § 552.123. Section 552.123 permits the withholding of *any* identifying information about the candidates, not just their names. Open Records Decision No. 540 (1990) (construing statutory predecessor to section 552.123). Examples of information identifying individuals might include, but are not limited to, resumes, professional qualifications, membership in professional organizations, dates of birth, current positions, publications, letters of recommendation, or any other information that can be uniquely associated with a particular applicant. *Id.* at 4. In addition, the exception protects the identities of all persons being considered for the position of university chief executive officer, whether they are nominated or apply on their own initiative. *Id.* at 5.

The university is an “institution of higher education” as defined by section 61.003(8) of the Texas Education Code. *See* Educ. Code § 61.003(6), (8). Additionally, you state the president is the “chief executive officer” of the university. The submitted information consists of responses to an online survey conducted by the university, which contains names of individuals who were suggested for the president position. Based on your representations and our review of the information at issue, we find you have failed to demonstrate how the information at issue identifies or tends to identify particular candidates being considered for the president of the university. Thus, the university may not withhold the information at issue pursuant to section 552.123 of the Government Code. As you raise no further exceptions to disclosure, the university must release the responsive 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,



Lauren Dahlstein
Assistant Attorney General
Open Records Division

LMD/som

Ref: ID# 546868

c: Requestor