



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 18, 2016

Ms. Jennifer E. Bloom
Senior Assistant General Counsel
Office of the General Counsel
University of Houston System
311 E Cullen Building
Houston, Texas 77204-2028

OR2016-18644

Dear Ms. Bloom:

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# 623528.

The University of Houston (the "university") received a request for a specified investigation.¹ The university claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception the university claims and reviewed the submitted representative sample of information.²

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't

¹The university states it sought and received clarification of the request. *See* Gov't Code § 552.222(b) (providing that if request for information is unclear, governmental body may ask requestor to clarify the 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 overbroad 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).

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 that submitted to this office.

Code § 552.101. Section 552.101 encompasses information protected by other statutes, such as section 51.971 of the Education Code, which provides, in pertinent part:

(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.

(2) “Institution of higher education” has the meaning assigned by Section 61.003.

...

(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[.]

...

(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)(1), (d). The university informs us it is an institution of higher education for purposes of section 61.003 of the Education Code. *See id.* § 51.971(a)(2). The university states the information at issue pertains to a completed investigation undertaken by the university’s Director of Human Resources and the university’s Title IX Coordinator and the allegations were found to be substantiated. The university states the investigation was conducted in response to allegations against a university employee and was initiated in order to assess and ensure compliance with all applicable laws, rules, regulations, and policies. Based on these representations, we find this information relates to an investigation conducted under the university’s compliance program. *See id.* § 51.971(a)(1).

The university seeks to withhold the information at issue in its entirety. The university claims, and has provided a statement from the investigator of the allegations at issue stating, only a small subset of individuals were involved in the investigation, and the requestor is familiar with this small group of individuals. The university further explains the requestor has specific knowledge of the events at issue and the employees involved. Accordingly, the university asserts release of the information at issue would directly or indirectly identify the individuals seeking guidance from or participating in the compliance program investigation. The university states none of these individuals have consented to the disclosure of their identifying information. *See id.* § 51.971(d). Upon review, we agree release of this information would directly or indirectly identify individuals as participants in the compliance program investigation. *See id.* § 51.971(c). Accordingly, the university must withhold the information at issue under section 552.101 of the Government Code in conjunction with section 51.971(c)(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.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,



Rahat Huq
Assistant Attorney General
Open Records Division

RSH/som

Ref: ID# 623528

Enc. Submitted documents

c: Requestor
(w/o enclosures)