



**UNT SYSTEM™**  
Office of General Counsel



July 31, 2020

SENT VIA EMAIL ONLY

[rmontoya@empowertexans.com](mailto:rmontoya@empowertexans.com)

Robert Montoya  
Empower Texans  
PO Box 700981  
Dallas, Texas 75370

Re: Request for Open Records Ruling  
UNT Public Information Request No. 007858

Dear Mr. Montoya:

The University of North Texas ("University") is in receipt of your request for information, dated July 10, 2020, seeking communications related to Young Conservatives of Texas. On July 24, 2020, and in accordance with section 552.301(d) of the Texas Government Code, you were notified that the university was seeking an open records ruling concerning whether information you requested is subject to public disclosure under the Texas Public Information Act.

A copy of our brief in support of an Open Records Division ruling, without attachments, is enclosed. The Open Records Division will inform you when it issues its decision.

Our office is in the process of compiling information not subject to our request for an open records ruling. In accordance with section 552.221(d) of the Texas Government Code, you are hereby notified that information responsive to your request will be available by Friday, August 14, 2020.

Sincerely,

Alice Hawes  
Public Information Coordinator

Enclosure



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July 31, 2020

Honorable Ken Paxton  
Attorney General of Texas  
ATTN: Open Records Division  
P.O. Box 12548  
Austin, Texas 78711-2548

Re: Request for Open Records Ruling  
UNT Public Information Request No. 007858

Dear General Paxton:

On July 10, 2020, the University of North Texas (“University”) received a request for communications among university officials regarding the Young Conservatives of Texas campus student organization. *See* Enclosure 1. On July 24, 2020, the university notified the Open Records Division that it was seeking a ruling concerning whether certain information responsive to the request is excepted from public disclosure under sections 552.101, 552.107, 552.111, and 552.139 of the Texas Government Code (the “Code”). *See* Enclosure 2. This letter explains why the university believes these exceptions apply.

The requestor will be provided a copy of this brief in accordance with section 552.301(d) of the Code. *See* Enclosure 3. Sections of the brief that disclose or contain the substance of information for which exceptions are asserted will be redacted from the copy sent to the requestor as authorized by section 552.301(e-1). Information responsive to this request, which is not excepted from disclosure under previous open records decisions and is not the subject of this request for a ruling, will be made available to the requestor.

**Section 552.101 (Confidential Information – Compliance Program)**

Section 552.101 of the Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” This section encompasses information protected by other statutes, including section 51.971 of the Education Code.

Section 51.971 excepts from disclosure under Chapter 552 “information . . . collected or produced in a compliance program investigation and releasing the information would interfere with an ongoing compliance investigation[.]” Tex. Educ. Code § 51.971(e)(1). The section defines “compliance program” as “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 . . . ethics and standards of conduct . . .” Tex. Educ. Code § 51.971(a)(1). The University of North Texas is an institution of higher education as defined by section 51.971(a)(2). See Tex. Educ. Code §105.202.

Information responsive to this request includes a complaint alleging the student organization violated the university’s nondiscrimination policy. The complaint includes the name of the person who filed the complaint as well as the individual’s email address, telephone number and personal identification number. See Representative Sample A. The complaint was received by the university’s Dean of Students Office, which is responsible for receiving and investigating complaints filed against students and student organizations. The Open Records Division has determined that investigations conducted by a university’s Dean of Students for alleged policy violations pertains to a university’s compliance program. See, e.g., Tex. A.G. Op. No. OR2014-15093 (Aug. 26, 2014) and Tex. A.G. Op. No. OR2014-15583 (Sept. 4, 2014).

The university is releasing the complaint. However, section 51.971(c)(1) of the Texas Education Code expressly provides that “[i]nformation 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” is confidential. For this reason, the university submits that the name of the complainant is excepted from public disclosure under section 552.101.

### **Section 552.111 (Agency Memoranda)**

Section 552.111 excepts from disclosure interagency or intraagency memoranda or letters that would not be available by law to a party in litigation with the agency. This exception, which incorporates memoranda consisting of advice, opinion or recommendations on policymaking matters of the governmental body, is intended to protect advice and opinions *on policy matters* and to encourage frank and open discussion within a governmental agency in connection with its decision-making processes. Open Records Decision No. 615 at 5 (1993); see also *Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App.--San Antonio 1982, writ ref’d n.r.e.).

In addition to protecting documents that reflect the deliberative process of governmental bodies, the Attorney General consistently has recognized that “a preliminary draft of a document that is intended for public release in its final form necessarily represents the drafter’s advice, opinion, and recommendation with regard to the form and content of the final document, so as to be excepted from disclosure under section 552.111.” See OR2007-14112 at 2. In ORD No. 559, the Attorney General opined that “a preliminary draft of a document *that is intended for release in a final form* necessarily represents the advice, opinion, and recommendation of the drafter as to the form and content of the final document.” See Open Records Decision No. 559 (1990).

Information responsive to this request includes

Accordingly, the marked language is excepted from disclosure by section 552.111.

**Section 552.139 (Confidentiality of Government Information Related to Security or Infrastructure Issues for Computers)**

Section 552.139(a) of the Government Code provides that “[i]nformation is excepted from [required public disclosure] if it is information that relates to computer network security, to restricted information under Section 2059.055 [of the Government Code] or to the design, operation, or defense of a computer network.”

The complaint referenced above, includes an internet protocol (IP) address of a university official who accessed the complaint from the automated compliant and information management system (Maxient). Disclosure of this IP address could potentially expose the university’s computer system to serious damage through theft or corruption by unauthorized activities by outside persons. Accordingly, the University submits the information, which is marked for redaction, is excepted from disclosure in accordance with section 552.139(a) of the Code.

Please contact me at (940) 565-2717 or [renaldo.stowers@untsystem.edu](mailto:renaldo.stowers@untsystem.edu) if you have any questions concerning this correspondence.

Respectfully,



Renaldo Stowers  
Senior Associate General Counsel

Enclosures

cc: Requestor (without enclosures and redacted)