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Associate General Counsel & Public Information Coordinator

December 10, 2025

Open Records Division
William B. Clements, Jr. State Office Building
300 W. 15th Street, 11th Floor
Austin, Texas 78701

Re: Public Information Request #13 from Robert Montoya to The University of Texas at Austin -- OGC# 223300

On November 24, 2025, The University of Texas at Austin (“University”) received a request for information from Robert Montoya (“Requestor”). The University subsequently sent the request to The University of Texas System (“UT System”) for handling with your office.

In accordance with section 552.301 of the Texas Government Code, we now send this request for decision within ten business days from the date the request was received, excluding the November 27, 2025, through November 28, 2025, Thanksgiving holiday, when the University was closed. UT System has copied the Requestor on this letter brief in accordance with section 552.301(d).

The Requestor seeks access to the following information:

All emails and text messages, sent or received, from Vice Provost Richard Reddick containing the key phrase “Abbott.”

The University will release most of the information to the Requestor. The University asserts the remaining responsive information, a representative sample of which is submitted herein, is protected from disclosure under sections 552.107 and 552.111 of the Texas Public Information Act (“Act”).

Section 552.107 of the Texas Government Code

The University asserts the information we have indicated is protected under section 552.107 of the Act. Section 552.107(1) of the Texas Government Code protects information from public disclosure if it is prohibited from disclosure by “a duty to the client under the Texas Rules of Evidence or the Texas Disciplinary Rules of Professional Conduct.” TEX. GOV’T CODE § 552.107(1). As discussed below, Attorney General open records decisions have specifically cited Rule 503 of the Texas Rules of Evidence (“Rule 503”) with regard to attorney-client privilege or

Rule 192.5 of the Texas Rules of Civil Procedure when considering core work product. *See also*, TEX. DISCIPLINARY R. OF PROF'L. CONDUCT § 1.05. These rules also extend to the exception to disclosure under section 552.107 of the Texas Government Code.

Under Rule 503, the privilege extends to a “client” or any “representative of a client.” TEX. R. EVID. § 503(b). A representative of a client is a “person having authority to obtain professional legal services, or to act on advice thereby rendered, on behalf of the client, or any other person who, for the purpose of effectuating legal representation for the client, makes or receives a confidential communication while acting in the scope of employment for the client.” TEX. R. EVID. § 503(a)(2). Open Records Decision No. 676 examines the scope of section 552.107(1) and holds, “information that is protected under Texas Rule of Evidence 503 is excepted from disclosure under Section 552.107(1).” Open Record Decision No. 676 (2002).

Open Records Decision No. 676 also states that “[a]n attorney for a governmental body has an independent duty of confidentiality for information subject to the attorney-client privilege as defined in Texas Rule of Evidence 503.” *Id.* Continuing, the decision states, “[a] governmental body has as much right as a private individual to consult with its attorney without risking the disclosure of communications protected by the attorney-client privilege.” *Id.* Further, section 552.107(1) protects the contents of the entire document containing privileged communications and not just portions designated as legal analysis or recommendations. *Harlandale ISD v. Cornyn*, 25 S.W.3d 328 (Tex. App.—Austin 2000, pet. denied).

In the information at issue, attorneys for the University are providing legal counsel, gathering information in order to provide legal counsel, or their clients are seeking legal advice from the attorneys and include the necessary background information so that counsel will be able to render an opinion on a given situation. From the text of the communications, it is evident that the attorneys for the University were involved in providing legal counsel to employees of the University. We have identified the attorneys on the face of the documents; all remaining parties to the communications are personnel of the University and/or are their representatives, and the issues of concern raised in these documents are within the course and scope of their employment and/or service to the University. Thus, these individuals are clients with the authority to obtain legal advice and act on such advice as provided by the attorneys in their capacity as legal counsel. In addition, the privilege extends to the representatives of the attorneys and clients. Finally, the information has been kept confidential and these documents were maintained only by and between the persons identified and protected by the privilege. They were not intended to be, and have not been, disclosed to parties other than those encompassed by the protection of the attorney-client privilege.

The University has the burden of demonstrating how and why responsive information is excepted under the attorney-client privilege and must show that the responsive documents include confidential communications “to, from, or between representatives of the client governmental body, made for the purpose of effectuating legal representation for it, and the subject matter must pertain to the performance by each client representative of the duties of his or her employment.” *See* Open Records Decision No. 676 (2002). We believe we have provided your office with

evidence sufficient to meet this burden. Thus, it is our position that the information at issue is confidential and privileged from disclosure and discovery under section 552.107 of the Texas Government Code.

Section 552.111 of the Texas Government Code

Notwithstanding the applicability of section 552.107 to the entirety of the information, the University asserts the information we have marked is protected from disclosure under section 552.111. This exception applies because the information contained within these documents is inherently advice, recommendations, and opinion.

The purpose of section 552.111 is “to encourage frank and open discussion within the agency in connection with its decision-making processes” pertaining to policy matters. *Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App.--San Antonio 1982, writ ref’d n.r.e.). Unfettered written exchanges and dialogues help facilitate the creation of feasible policy decisions. The ability of these individuals to opine, investigate, explore potential problems, and suggest changes to the University’s approach is an invaluable internal management tool that actively promotes constructive checks and balances, both at the campus level and, ultimately, throughout the UT System. Although section 552.111 does not protect facts and written observations of facts and events severable from advice, opinions, and recommendations, any factual information within the responsive information is not only intertwined with the material containing advice, opinion, or recommendation, but any such factual information reflects what the employees found to be of importance in evaluating information related to the matters described above. Accordingly, any such factual information reflects employees’ advice, opinion, and recommendation. *See* Open Records Decision No. 313 at 3 (1982).

The document at issue consists of a draft policy that was intended for release in its final form. As such, the draft is protected in its entirety. *See* OR2005-03996 (2005) (“where a document is...intended for release in final form, factual information in that draft which also appears in a released or releasable final version is excepted from disclosure by section 552.111.”) (citing Open Records Decision No. 559 (1990)). Accordingly, the University asserts the information at issue is excepted from disclosure pursuant to section 552.111.

Conclusion

The University respectfully requests that the Attorney General review the arguments presented in this brief and issue a ruling that the responsive information is protected as described herein.

All interested parties are listed below. If you need additional information, please do not hesitate to contact me at 512-579-5187.

Sincerely,



Jennifer Burnett

cc: Requestor: (w/o Enclosures)

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