

August 3, 2026

Sent Vial Email Only

Texas Scorecard

highered@texasscorecard.com

Re: Request for Open Records Ruling
UNT Public Information Request No. 1551

Dear Texas Scorecard:

On July 27, 2026, and in accordance with section 552.301(d) of the Texas Government Code, you were notified that the System was seeking an open records ruling concerning whether certain 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.

Pursuant to section 552.221(d) of the Texas Government Code, we certify that the information not subject to our request for an open records ruling will be made available by August 17, 2026.

Sincerely,

Alice Hawes

Alice Hawes
Public Information Coordinator

Enclosure

cc: Attorney General of Texas
Open Records Division

August 3, 2026

Sent Via OAG's PIA Electronic Filing System

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. 1551

Dear General Paxton:

On July 13, 2026, the University of North Texas System Public Information Program (“System”) received a request for communications in the possession of the University of North Texas interim Vice President and Provost of Academic Affairs that mention “Abbott, Critical, Equity, Queer, [and] Sexual” over a specified period. *See* Enclosure 1. On July 27, 2026, the System 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 and 552.111 of the Texas Government Code (the “Code”). *See* Enclosure 2. This letter explains why the System 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. 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.” Tex. Gov’t Code §552.101. The Attorney General has recognized that information excepted from disclosure under section 552.101 encompasses section 51.971 of the Texas Education Code, which protects from disclosure certain information related to a compliance program. Section 51.971(a)(1) 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:

- (A) ethics and standards of conduct;
- (B) financial reporting;
- (C) internal accounting controls; or

(D) auditing.

Section 51.971(c) expressly provides that the following information is 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;” and
- (2) information that directly or indirectly reveals the identity of an individual as a person who is alleged to have or may have planned, initiated, or participated in activities that are the subject of a report made to the compliance program office of an institution of higher education if, after completing an investigation, the office determines the report to be unsubstantiated or without merit.

Section 51.971(e)(1) provides that information is excepted from disclosure if it is collected or produced in a compliance program investigation and releasing the information would interfere with an ongoing compliance investigation.

The University is an institution of higher education for purposes of section 61.003, Tex. Edu. Code §61.003(3); *see Nat’l Sports & Spirit, Inc. v. Univ. of N. Tex.*, 117 S.W.3d 76, 81 (Tex. App.—Fort Worth 2003, no pet.). It maintains a compliance program expressly for the purpose of “assessing, monitoring, overseeing and ensuring compliance by university employees with applicable federal and state laws, [UNT System] Regents Rules, [UNT] System Regulations, and institutional policies.” The UNT System Human Resources department, which serves UNT and the other System’s component institutions, is responsible for investigating compliance with applicable university workplace policies and is a system-wide compliance office as described in section 51.971(a)(1).

Information responsive to this request includes

See Representative Sample A. The document contains information that directly reveals the identity of the individual who reported the alleged violation as well as the identities of university employees who allegedly engaged in the alleged noncompliance. Further, release of information at this time would interfere with the ongoing investigation.

Information responsive to this request also includes

See Representative Sample D. The document contains information that directly reveals the identity of the individual who reported the alleged violation as well as the identity of who a compliance investigation determined did not violate university policy as alleged. Accordingly, the responsive information is excepted from disclosure under section 552.101 in conjunction with section 51.971 of the Texas Education Code.

Section 552.107 (Certain Legal Matters)

Section 552.107 of the Code excepts from disclosure information “the attorney general or an attorney of a political subdivision is prohibited from disclosing because of a duty to the client under the Texas Rules of Evidence or the Texas Disciplinary Rules of Professional Conduct.” Documents responsive to this request contain information that attorneys who provide legal advice and services to UNT officials and employees would be prohibited from disclosing pursuant to their duty under the Texas Rules of Evidence.

Rule 503(b)(1) of the Texas Rules of Evidence provides:

A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of facilitating the rendition of professional legal services to the client:

- (A) between the client or a representative of the client and the client's lawyer or a representative of the lawyer;
- (B) between the lawyer and the lawyer's representative;
- (C) by the client or a representative of the client, or the client's lawyer or a representative of the lawyer, to a lawyer or a representative of a lawyer representing another party in a pending action and concerning a matter of common interest therein;
- (D) between representatives of the client or between the client and a representative of the client; or
- (E) among lawyers and their representatives representing the same client.

Rule 503(a)(5) defines confidential communication as one that is not intended to be disclosed to third persons other than those to whom disclosure is made in furtherance of the rendition of professional legal services to the client or those reasonably necessary for the transmission of the communication. *In re the City of Georgetown*, 53 S.W.3d 328, 333-34 (Tex. 2001) (holding the Texas Rules of Civil Procedure and the Texas Rules of Evidence are “other law” within the meaning of section 552.022).

A governmental body asserting the attorney-client privilege must: (1) demonstrate that the document at issue is a communication transmitted between privileged parties or reveals a confidential communication; (2) provide the identities and capacities of individuals involved in the communication; and (3) demonstrate that the communication is confidential by explaining that it was not intended to be disclosed to third persons and that it was made in furtherance of the rendition of professional legal services to the client. *See Open Records Decision No. 676 at 7-10 (2002)*.

A governmental body may demonstrate that a document is communication transmitted between privileged parties or one that reveals a confidential communication by explaining the role of the attorney or attorneys with respect to each communication for which the privilege is asserted, describing the nature of the professional legal services to which each communication pertains and showing how the legal services are for the client-governmental body. *See ORD 676 at 5*.

Information responsive to this request includes communications to and from attorneys in the UNT System Office of General Counsel to or from:

a.

b.

c.

d.

e.

The UNT and UNT System officials who sent or received these communications were in positions to request and act on legal advice from the UNT System attorneys, each who were acting solely in their capacity as legal counsel at all times the communications were sent and received. *See In Re Texas Farmers Ins. Exch.*, 990 S.W.2d 337, 340 (Tex. App.-Texarkana 1999, orig. proceeding) (The attorney-client privilege does not apply if the attorney acts in a capacity other than that of an attorney).

Finally, the communications identified in the Representative Samples were intended to be confidential and not disclosed to anyone other than the recipients. *See In Re the City of Georgetown*, 53 S.W.3d 328 (Tex. 2001). (A communication is confidential if it is “not intended to be disclosed to third persons other than those to whom disclosure is made in furtherance of the rendition of professional legal services to the client or to those individuals reasonably necessary for the transmission of the communication”). In fact, Representative Sample E contains the watermark “DRAFT/ATTORNEY-CLIENT PRIVILEGE,” and Representative Sample F contains a notice demonstrating the intent that the email is intended to be confidential:

IMPORTANT NOTICE: The information contained in this email, including attachments, is covered by the Electronic Communication Privacy Act (18 USC §§2510-2521). The information is only for the personal use of the intended recipient(s) and may be protected by the ATTORNEY-CLIENT PRIVILEGE. As such, the information is privileged and confidential. If you are not an intended recipient or a person responsible for delivering the message to an intended recipient, please immediately delete or destroy this message and any copies in your possession and notify the sender at renaldo.stowers@untsystem.edu or (940) 565-2717. Any disclosure of confidential or privileged information in this message is inadvertent and does not constitute a waiver of its confidential or privileged status. Any review, dissemination, distribution, reproduction or use of information in this message by or to anyone other than the intended recipient is unauthorized and strictly prohibited.

See Osborne v. Johnson, 954 S.W.2d 189, 194 (Tex. App.-Waco 1997, no writ) (whether a communication is confidential depends on the intent of the parties involved at the time the information was communicated). *See also* Open Records Decision No. 676 at 7-10 (2002).

Accordingly, the System has established that the information represented by the Representative Samples is excepted from public disclosure under section 552.107.

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. *See* 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

See Representative Sample E. The System represents that the information was released to the public. Accordingly, the marked language is excepted from disclosure by section 552.111.

Please contact me at (940) 565-4118 or renaldo.stowers@untsystem.edu if you have any questions regarding this correspondence.

Respectfully,



Renaldo Stowers
Deputy General Counsel

Enclosures

cc: Requestor (without enclosures and redacted)