

Key Questions to Ask

- Is the requested information “public information?”
- Does the university or a third party on the university’s behalf have the requested information?
- Is the information responsive to the request?
- Does an exception to disclosure apply?
- Is this information “core public information?”
- Does this requestor have a special right of access?

Notable Exceptions

- Information that is considered to be *confidential* under other law, either constitutional, statutory, or by a judicially-recognized (common law) right to privacy or safety. (Common law privacy includes information regarding personal financial decisions, medical conditions, mental health, etc.) **Section 552.101**
- Certain *confidential* information in a personnel file (an employee date of birth). **Section 552.102**
- Information relating to litigation or settlement negotiations involving state/political subdivision. **Section 552.103**
- Information giving an advantage to a competitor or bidder (pending bid, contract, or competitive situation). **Section 552.104**
- Attorney/client privileged communications. **Section 552.107**
- Information held by law enforcement agency or prosecutor dealing with detection, investigation, prosecution of crime if release would interfere with pending investigation or prosecution. **Section 552.108**
- Third party trade secrets, and commercial or financial information the disclosure of which would cause substantial competitive harm to the third party (*confidential*). **Section 552.110**
- Intra- and interagency memoranda or letters that would not be available to a party in litigation with your university (advice, opinions, recommendations on policymaking matters). **Section 552.111**
- Audit working papers (not including final report). **Section 552.116**
- A current/former official or employee’s home address, home telephone number, SSN, and whether the person has family members (*IF individual chooses not to allow access. Confidential and NO AG decision required*). **Section 552.117 and 552.024**
- Name/identifying information of donor of money or property to institution of higher education (not amount and similar info). (*confidential*). **Section 552.1235**
- Certain motor vehicle information, DL info and numbers, license plate numbers, etc. (*confidential, NO AG decision required*). **Section 552.130**
- Credit card, debit card, bank account numbers, etc. that can be used on their own or with other information to access and obtain money, goods and services (*confidential, NO AG decision required*). **Section 552.136**
- Certain email addresses of members of the public that have been provided for the purpose of communicating with a governmental body (*confidential, NO AG decision*). **Section 552.137**

- Information relating to an employee or officer is excepted IF, “under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm” (*confidential*).
Section 552.152

Examples of “Confidential Under Other Law” (statutes)

Texas Education Code provisions (chapter 51)

- **Section 51.914**
 - information related to our research data/products/devices/processes with potential to be commercialized, or similar info from research sponsor.
 - Information that “would reveal the institution’s plans or negotiations for commercialization or a proposed research agreement, contract, or grant, or that consists of unpublished research or data that may be commercialized, is not subject to Chapter 552, Government Code, unless the information has been published, is patented, or is otherwise subject to an executed license, sponsored research agreement, or research contract or grant.”
- **Sections 51.917 and 51.918**
 - Personal identifying information maintained for institution’s emergency alert system (includes email address, telephone numbers).
- **Section 51.971**
 - Certain information related to institution/system compliance program.
 - Information revealing identity of person making report/seeking guidance/participating in investigation under compliance program is *confidential*
 - Information revealing identity of person who is the subject of allegation if report found to be unsubstantiated or without merit is *confidential*
 - Pending investigation exception
 - Information gathered or produced by system compliance office in review of system member compliance processes
- **FERPA (The Family Educational Rights and Privacy Act of 1974)**
 - FERPA generally makes education records confidential without the prior consent of the student (*See 20 USCA § 1232g(b)(1); 34 CFR §99.30*)
 - Absent an election to the contrary, directory information can be released without a student’s prior consent (*See 20 USCA § 1232g(b)(1); 34 CFR 99.37*)
 - FERPA provides instances in which education records may be provided to certain individuals without a student’s consent, such as “other school officials...who have been determined...to have legitimate educational interests...” (*See 20 USCA § 1232g(b)(1)(A)*)