

A Brief Overview of the  
Texas Public Information Act  
and Legislative Updates

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**UNIVERSITY of HOUSTON**

**Texas Public Information Act**

- What is the Texas Public Information Act (“PIA”)?
- Under the PIA, all information collected by a governmental body (e.g., UH) in any medium is presumed to be open to the public unless there is a specific exception to disclosure.
- Freedom of Information Act (“FOIA”) applies to federal, not state agencies.
- Does the PIA apply to private entities such as Kroger or Gallery Furniture?

**UNIVERSITY of HOUSTON****Could this really be public information?**

- 1) All contracts of the current head coaches at the UH Athletics Department;
- 2) Home addresses and home telephone numbers of every current UH employee;
- 3) All e-mails sent to or from Professor Smith over the past five years;
- 4) All text messages sent to or from Coach Doe over the past week;
- 5) All documents reflecting the annual salaries of current UH employees;
- 6) The appointment calendars contained in Microsoft Outlook for all UH employees who attended this presentation

**UNIVERSITY of HOUSTON****What is Public Information?**

- Any information that is written, produced, collected, assembled, or maintained in connection with the transaction of official business
  
- Information that is in connection with the transaction of official business if the information is created by, transmitted to, received by, or maintained by an employee of the University

**UNIVERSITY of HOUSTON****What is Public Information?**

- Public information includes **any** electronic communication created, transmitted, received or maintained on **any** device if the communication is in connection with the transaction of official business
  - This includes information on **personal cell phones** and/or **personal computers or devices** if used in connection with official business
- A current or former employee of the University does not have by virtue of the employee's position a personal or property right to public information the employee created or received while acting in an official capacity

**UNIVERSITY of HOUSTON****Important Legislative Update**

- Public information includes **any** contracting information including any communication exchanged between the University and any vendor or contractor related to the performance of a final contract or work performed on behalf of the University. This means that **all** communications between University personnel and vendors, contractors, potential vendors, and potential contractors must be preserved pursuant to the University's records retention schedule.

**UNIVERSITY of HOUSTON****Important Legislative Update**

- All contracts (including Purchase Orders) of at least \$1M must have the “Certification Form – TIPA Requirements 1M+”. Campus departments must attach the form to their contracting and Purchase Order packets for processing.
  - The form is located on the Purchasing Forms Page at <https://uh.edu/office-of-finance/purchasing/Forms/>
  - The form is located on the Finance Forms Page at <https://uh.edu/finance/pages/forms.htm>
- Vendor TPIA information has been developed and is published on the Finance website.
  - The information is linked from the Purchasing Vendor Page at: <https://uh.edu/office-of-finance/purchasing/vendor-resources/>
  - The information is linked from the Finance Vendor Pages at: <https://uh.edu/office-of-finance/vendor/vendor-texas-public-information-act/>

**UNIVERSITY of HOUSTON****First Step: Identify Whether it is a Public Information Act Request**

- What is considered a request under the PIA?
  - Two basic requirements:
    - (1) in writing; and
    - (2) seeks information or records that are already in existence.

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First Step: Identify Whether it is a Public Information Act Request

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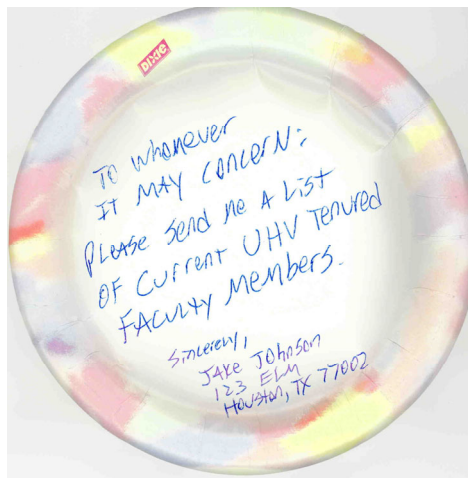
Ms. Dona Hamilton
Vice Chancellor for Legal Affairs
and General Counsel
University of Houston
3100 Cullen Blvd., Suite 2008
Houston, TX 77204-6742

Dear Ms. Hamilton:

Pursuant to the Open Records Act, I would like to respectfully request that I be given copies of the most current contract and any added compensation benefits and incentive packages for your Men's Head Basketball Coach.

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First Step: Identify Whether it is a Public Information Act Request



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**Step Two: If it is a PIA Request, Contact Our Office Immediately**

True or False: If it is a request for information that I can easily provide, I should go ahead and send the information to the requestor to save everyone time.

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**False!**

Criminal penalties established by the PIA:

- Releasing confidential information that is excepted from disclosure. Texas Government Code § 552.352(a).
  - Violation = Official misconduct punishable by up to six months in jail and/or a fine of up to \$1,000.
- All requests must be handled by the Office of the General Counsel. See SAM 03.H.02.

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- What if the information that is requested contains information that I do not want anyone to see?
- Can I just quickly throw the request and the responsive documents in the shredder?

**UNIVERSITY of HOUSTON****NO!**

Additional criminal penalties established by the PIA:

- Withholding information that is not excepted from disclosure. Texas Government Code § 552.353(a).
  - Violation = Official misconduct punishable by up to six months in jail and/or a fine of up to \$1,000.
- The PIA also criminalizes the destruction, alteration or concealment of public records. Texas Government Code § 552.351.

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### Timeline

- Within 10 Business Days **from the date the University receives the request**, The Office of the General Counsel must either
  - 1) provide the information to the requestor, or
  - 2) request a decision from the Texas Attorney General's Office.
- The PIA also states failure to surrender information within 10 business days is grounds for disciplinary action as well as any other penalties provided by the PIA or other law.

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### The Request for an Attorney General Decision

#### UNIVERSITY of HOUSTON SYSTEM

Office of the General Counsel

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Office of the General Counsel  
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April 12, 2019

VIA UPS 2<sup>nd</sup> DAY AIR

The Honorable Ken Paxton  
Attorney General of Texas  
209 W. 14<sup>th</sup> Street, 6<sup>th</sup> Floor  
Austin, Texas 78701

**Re: Texas Public Information Act Request From Mario Diaz**

Dear Attorney General Paxton,

The University of Houston (the "University") requests an Attorney General decision concerning whether certain information is subject to public disclosure under the Texas Public Information Act (the "Act"). On February 5, 2019 the University received the following request from Mario Diaz:

- Emails with the words: rhabdomyolysis and/or rhabdo from January 1, 2018 to June 1, 2018.
- Emails with the words: rhabdomyolysis and/or rhabdo from November 1, 2018 to December 31, 2018.
- Emails with the words: rhabdomyolysis and/or rhabdo from January 25, 2019 to February 3, 2019.<sup>1</sup>

Mr. Diaz further narrowed the scope of his request on February 27, 2019 and was asked again to narrow the scope of his request on March 26, 2019. See email chain in **Exhibit 1**. The University has provided some of the responsive information to Mr. Diaz. See **Exhibit 2**. However, the University believes the remaining information responsive to the request is exempted from disclosure under Texas Government Code § 552.107 because it consists of communications that are protected by the attorney-client privilege.



## UNIVERSITY of HOUSTON

### The Request for an Attorney General Decision



June 18, 2019

Ms. Cecilia Alvarez  
Assistant General Counsel  
University of Houston System  
Ezekiel W. Callen Building  
4302 University Drive, Room 311  
Houston, Texas 77204-2028

OR2019-16475

Dear Ms. Alvarez:

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# 771575.

The University of Houston (the "university") received a request for e-mails during a specified time period containing specified terms. The university states it is releasing some of the requested information. The university claims the submitted information is exempt from disclosure under section 552.107 of the Government Code. We have considered the exception the university claims and reviewed the submitted information. We have also received and considered comments from a representative of the requestor. See Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

**Within 45 business days, the Texas Attorney General's Office Will Issue a Decision**

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### General Questions

- Can UH charge a requestor for the cost of compiling and producing copies of information?
- Who is in charge of billing the requestor?
- Can you ask the requestor, "Why do you want all of this stuff?"
- True or False: A Public Information Act request must come from someone outside of the University.
- True or False: All documents and information provided to the Office of General Counsel are automatically produced.
- What if a UH professor calls the UH registrar's office and asks for the salaries of everyone in the registrar's office?

## SAM 03.H.02 Updates

- 2.8 If System or University business is conducted on personal electronic devices, it should be transferred to the UH System server as soon as practicable because such information is subject to the Texas Public Information Act.
- 2.9 Failure to surrender information that constitutes Public Information to the Office of the General Counsel or the PIO within ten (10) business days of the date that the request is received by the PIO, is grounds for disciplinary action in addition to any other penalties provided by law.