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Via Electronic Filing

Open Records Division
Office of the Attorney General
P.O. Box 12548, Capitol Station
Austin, Texas 78711-2548

Re: Comments under Tex. Gov't Code § 552.304

Requestor: Kevin Bass
Original Request Date: October 3, 2025 (clarified November 4, 2025)
Gov't Body: Texas Tech University System / TTUHSC
TTUS File Nos.: 2025-812 & 2025-813 (OAG Tracking No. OR25053385)

Dear Attorney General Paxton:

I submit these written comments under Tex. Gov't Code § 552.304 regarding the Texas Tech University System's ("TTUS") November 18, 2025 request for a ruling in TTUS File Nos. 2025-812 and 2025-813.

My understanding is that TTUS now asks to withhold **spreadsheets of email-header metadata only**—dates, sender/recipient fields, subject lines, and attachment information for a short time period and a handful of custodians—under §§ 552.103, 552.107, 552.111, and 552.137.

I am not a lawyer; these comments reflect my good-faith understanding of the Public Information Act and the authorities cited.

I. What I actually requested

After TTUS's October 17 clarifications, I **narrowed** my October 3, 2025 requests on November 4, 2025 to seek **metadata only** for a short time period, limited custodians, and specific terms.

In particular, I requested header-level email metadata—from/to/cc/bcc, subject, date/time, folder, and attachment names/counts—for certain TTUS/TTUHSC custodians using search terms relating to my dismissal, appeal, name-clearing processes, professionalism allegations, and related issues. I did not request email bodies or attachment content. **In my November 4 narrowing email, I expressly stated: "Search focus (metadata only): From, To, Cc, Bcc,**

Subject, Sent/Received date-time (UTC), Message-ID/Internet-Message-ID, thread/conversation ID, folder path, size, attachment count + filenames (no body text)."

The records at issue are essentially **email logs and routing information**: who sent what to whom, when, about what, with what attachments. They do not include the substance of legal advice.

I address TTUS's broader pattern of over-asserting discretionary exceptions in a separate § 552.304 comment regarding its October 9, 2025 requests

II. Metadata and process logs should not be withheld wholesale

TTUS's 10-day letter indicates it will rely principally on Tex. Gov't Code §§ 552.103, 552.107, and 552.111 to **withhold the metadata spreadsheets in bulk**. That approach is overbroad for at least three reasons.

1. The PIA is independent of discovery

The Act expressly provides that it does not affect civil discovery and that discovery requests are not PIA requests. See Tex. Gov't Code §§ 552.005, .0055, .006. Your Office has likewise recognized that "the discovery process has no bearing on the availability of information requested under the Act." Treating any record that might later be sought in litigation as automatically shielded under § 552.103 would invert that principle and allow a governmental body to hide routine process records simply by pointing to actual or threatened litigation.

Here, my clarified metadata requests **post-date** my October 3–4 PIA submissions and are aimed at how TTUS handled those PIA filings and related disciplinary matters—not at TTUS's litigation strategy. Even if some of the same metadata might later be relevant in civil discovery, that does not transform the entire metadata set into "expedited discovery." The Act still requires **segregation of non-privileged information** and disclosure of factual material.

If § 552.103 were read to cover **every log or header entry that might someday be evidence**, then any public body facing criticism could route sensitive communications through counsel and permanently wall off its own process records from PIA oversight. That is not how §§ 552.005–.006 have been applied.

2. Metadata is factual and segregable

Your Office's decisions under §§ 552.107 and 552.111 draw a sharp line between:

- **Privileged advice and policy deliberation**, and
- **Underlying facts and routing information**, which are generally subject to release with any truly privileged content redacted.

For example:

- ORD-676 interprets § 552.107(1) to protect confidential communications between attorney and client **made for the purpose of facilitating legal services**—not every fact that happens to ride along with such a communication.
- ORD-615 holds that § 552.111 protects **advice, recommendations, and opinions** on policy matters, but not **purely factual material** or routine administrative handling, which must be severed and released.

Header-level metadata—dates, sender/recipient fields, subject lines, attachment file names—is factual routing information. It can be disclosed even when the message body is privileged or deliberative. In its November 25 brief, TTUS represents that the responsive information for my narrowed metadata requests (Exhibit ‘E’) consists of Excel spreadsheets of email metadata, with individual cells redacted or color-coded for the exemptions it claims, underscoring that the information at issue is discrete and severable.

Treating all cells in those spreadsheets as categorically privileged or deliberative would be a significant expansion of §§ 552.103, 552.107, and 552.111, inconsistent with your prior rulings requiring **segregation of non-privileged facts**.

3. PIA / FERPA / discipline handling is itself public business

My narrowed requests focus on how TTUS and TTUHSC **handle**:

- Public information requests (PIA),
- FERPA requests, and
- Discipline-related actions and name-clearing processes,

including routing between the public information office, counsel, and administrators.

The PIA obligates governmental bodies to use resources efficiently and avoid excessive costs in producing public information. See Tex. Gov’t Code §§ 552.221, 552.268. Where the subject of the request is the **university’s performance of those obligations**—and its handling of a student’s discipline and rights—using § 552.103 to shield process metadata would make meaningful oversight nearly impossible.

Recognizing a narrow right of access to factual metadata does **not** force disclosure of litigation strategy. TTUS can still withhold or redact any actual communications that meet the elements of §§ 552.103, 552.107, or 552.111, while releasing the “who/when/what subject/what attachment” data that simply documents what the institution did.

III. Privacy, FERPA, and § 552.137 can be handled by redaction

To the extent TTUS argues that metadata implicates other students’ privacy or FERPA, **targeted redactions—not blanket withholding—are the proper remedy**.

- Student names, IDs, or other personally identifiable information appearing in subject lines or file names can be redacted.

- Personal email addresses may be redacted under § 552.137.

I do not object to appropriate FERPA-based or § 552.137 redactions. Much of the metadata concerns records **about me**, and I have a special right of access under § 552.023(a) to information relating to me that is protected only by privacy-based laws, with § 552.026 ensuring FERPA is not read more broadly than federal law itself.

What concerns me is TTUS's "all-or-nothing" approach. Its reliance on § 552.137 and FERPA to justify withholding entire spreadsheets appears to treat the mere possibility that some rows might include other students' identifiers or personal email addresses as a license to withhold unrelated, segregable metadata about:

- emails I sent or received; and
- institutional handling of my own PIA, FERPA, and preservation requests.

Your Office has repeatedly required governmental bodies to **redact protected details and release the rest**. Allowing TTUS to withhold these spreadsheets wholesale on privacy grounds would invert that practice and invite over-designation of "mixed" datasets whenever a requester is also a critic or potential litigant.

My concern is with wholesale withholding that sweeps in purely institutional process data and metadata about my own records.

IV. Policy and precedent

The Legislature has instructed that the PIA be **liberally construed in favor of granting access** and that exceptions be construed **narrowly**. Tex. Gov't Code §§ 552.001(a)–(b), 552.006. Texas courts have echoed that principle repeatedly, including in *Thomas v. Cornyn*, *City of Fort Worth v. Cornyn*, and *Greater Houston Partnership v. Paxton*.

TTUS's position here would move in the opposite direction. The information at issue is not trial strategy or attorney work product; it is **process metadata documenting how TTUS and TTUHSC handled a controversial student matter and the related PIA/FERPA and preservation requests**. It is precisely the sort of administrative record that allows the public (and affected students) to verify whether the Act is working as intended.

If TTUS's position is accepted—that spreadsheet metadata documenting PIA/FERPA handling and discipline-related communications can be withheld in bulk whenever the requester is litigious or outspoken—then some of the most important oversight use-cases of the Act will be the least transparent. That result would undercut both the text and policy of Chapter 552.

V. Requested outcome

For these reasons, I respectfully request that your Office:

1. **Decline** to permit TTUS to withhold **all** email metadata under §§ 552.103, 552.107, and 552.111.
2. Require TTUS to **segregate and release non-privileged metadata**, including:
 - metadata for emails I sent or received;
 - metadata documenting TTUS's PIA/FERPA and preservation handling (e.g., routing between the public information office, OGC, and administrators); and
 - header-level data (from/to/cc/bcc, date/time, subject, folder, attachment names/counts) except where a specific, supported exemption applies.
3. If TTUS asserts §§ 552.103, 552.107, or 552.111, require a **particularized showing** consistent with your precedents and release of all reasonably segregable factual information.

Thank you for your consideration and for your Office's work enforcing the Public Information Act.

Respectfully submitted,

Kevin Bass, PhD, MS
Requestor