

January 28, 1999

Mr. James G. Nolan
Senior Attorney
Legal Services-Information Release
Texas Workforce Commission
101 E. 15th Street
Austin, Texas 78778-0001



OFFICE OF THE
ATTORNEY GENERAL
STATE OF TEXAS

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OR99-0253

Dear Mr. Nolan:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code, the Open Records Act. Your request was assigned ID# 121716.

The Texas Workforce Commission (the "commission") received a request for information relating to complaints made by a named individual pertaining to schools regulated by the commission, as well as complaints filed against such individual acting in the capacity of director or administrator of an educational entity. You state that the commission has advised the requestor that information related to two complaints by the individual, with the exception of confidential student record information, are available for inspection and copying. You seek to withhold -- under sections 552.101, 552.108, 552.111, 552.116 of the Government Code and under the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. Sec. 1232g ("FERPA") -- information you say pertains to an ongoing investigation being conducted by the commission. You have submitted for our consideration representative samples of the information at issue.¹

Section 552.108(a)(1) excepts from required public disclosure

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if:

¹In reaching our conclusion, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision No. 499 (1988), 497 (1988) (where requested documents are numerous and repetitive, governmental body should submit representative sample; but if each record contains substantially different information, all must be submitted). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

(1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]

You seek the protection of section 552.108(a)(1) for all of the information at issue. You contend that the information relates to an ongoing investigation by the commission of allegations "including fraud and misrepresentations." It appears that the commission is conducting the investigation in question pursuant to its regulatory duties *vis a vis* proprietary schools under chapter 132 of the Education Code. *See generally*, Educ. Code ch. 132, subch. B (powers and duties of commission regarding proprietary schools). Based on our review of the information you submitted and assuming that the commission intends to refer this matter to a law enforcement agency if it finds evidence to support criminal charges, we conclude that you may withhold the information at issue under section 552.108(a)(1). *See* Open Records Decision No. 493 (1988); Attorney General Opinion MW-575 (1982). Since we have resolved this matter under section 552.108(a)(1), we need not address your other claimed exceptions to disclosure.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



William Walker
Assistant Attorney General
Open Records Division

WMW/ch

Ref: ID# 121716

Enclosures: Submitted documents

cc: Mr. Ken Bates
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(w/o enclosures)