



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 2, 2014

Ms. Jena R. Abel  
Assistant General Counsel  
Texas Board of Nursing  
333 Guadalupe Street, Suite 3-460  
Austin, Texas 78701

OR2014-11415

Dear Ms. Abel:

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# 527989.

The Texas Board of Nursing (the "board") received a request for a specified self-study report. Although you take no position as to whether the submitted information is excepted under the Act, you state release of this information may implicate the proprietary interests of San Jacinto College (the "college"). Accordingly, you state you notified the college of the request for information and of its right to submit arguments to this office as to why the information at issue should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have received comments from the college. We have considered the submitted comments and reviewed the submitted information.

The college informs us it does not approve of the release of its information. However, the college has not raised any exceptions to disclosure under the Act, nor has the college provided any arguments against disclosure. Thus, we are unable to conclude the college has a protected proprietary interest in any portion of the submitted information. *See* Gov't Code § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, the board may not withhold any portion of the submitted information based upon any proprietary interest of the college.

We note some of the submitted information may be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; see Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit.

In summary, as no exceptions to disclosure have been raised, the board must release the submitted information; however, any information protected by copyright may only be released in accordance with copyright law.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Miriam A. Khalifa  
Assistant Attorney General  
Open Records Division

MAK/akg

Ref: ID# 527989

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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San Jacinto College Central  
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Pasadena, Texas 77505  
(w/o enclosures)