



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

June 1, 2011

Ms. Margo Kaiser  
Staff Attorney  
Texas Workforce Commission  
101 East 15<sup>th</sup> Street  
Austin, Texas 78778-0001

OR2011-07731

Dear Ms. Kaiser:

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# 419216 (TWC Tracking No. 110218-067).

The Texas Workforce Commission (the "commission") received a request for any complaint or punitive action information regarding a named career school and three named entities, and any written communications and any hearing transcripts regarding two named individuals during a specified time period.<sup>1</sup> You state the commission will withhold information pursuant to Open Records Decision No. 684 (2009), and has redacted information pursuant to section 552.147 of the Government Code.<sup>2</sup> Additionally, you state some of the requested

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<sup>1</sup>You state, and provide supporting documentation demonstrating, the commission sought and received clarification of the request for information. *See* Gov't Code § 552.222(b) (stating that if information requested is unclear to governmental body or if a large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *see also City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding that when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date the request is clarified or narrowed).

<sup>2</sup>Open Records Decision No. 684 serves as a previous determination to all governmental bodies authorizing them to withhold ten categories of information without the necessity of requesting an attorney general decision. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. *See* Gov't Code § 552.147(b).

information may be protected by copyright law. You claim that the remaining requested information is excepted from disclosure under sections 552.101, 552.107, and 552.116 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>3</sup>

We will first address your argument under section 552.116 of the Government Code, as it is potentially the most encompassing exception you raise. Section 552.116 provides as follows:

(a) An audit working paper of an audit of the state auditor or the auditor of a state agency, an institution of higher education as defined by Section 61.003, Education Code, a county, a municipality, or a joint board operating under Section 22.074, Transportation Code, including any audit relating to the criminal history background check of a public school employee, is excepted from the requirements of Section 552.021. If information in an audit working paper is also maintained in another record, that other record is not excepted from the requirements of Section 552.021 by this section.

(b) In this section:

(1) "Audit" means an audit authorized or required by a statute of this state or the United States, the charter or an ordinance of a municipality, an order of the commissioners court of a county, a resolution or other action of a board of trustees of a school district, including an audit by the district relating to the criminal history background check of a public school employee, or a resolution or other action of a joint board described by Subsection (a) and includes an investigation.

(2) "Audit working paper" includes all information, documentary or otherwise, prepared or maintained in conducting an audit or preparing an audit report, including:

(A) intra-agency and interagency communications; and

(B) drafts of the audit report or portions of those drafts.

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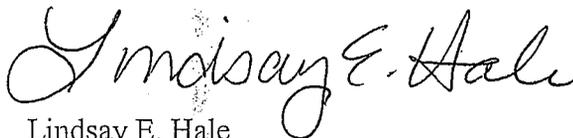
<sup>3</sup>This letter ruling assumes that the submitted representative sample of information is truly representative of the requested information as a whole. This ruling does not reach, and therefore does not authorize, the withholding of any other requested information to the extent that the other information is substantially different than that submitted to this office. See Gov't Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

Gov't Code § 552.116. You state that the information at issue consists of audit working papers that were compiled by the commission during the course of investigations into and oversight of career schools subject to the jurisdiction of the commission, as authorized under sections 132.021 and 132.058 of the Education Code. *See* Educ. Code §§ 132.021, .058 (authorizing the commission to revoke or place conditions upon an issued certificate of approval if the commission has reasonable cause to believe the school violated chapter 132 of the Education Code or any rules adopted thereunder); *see also* 40 T.A.C. § 807.302 (providing the commission's regulations regarding requirements for an investigation of a complaint against a career school subject to jurisdiction and control of the commission). You state the commission will release any final audit reports. Based on your representations and our review, we agree that the information at issue constitutes audit working papers under section 552.116. Accordingly, the commission may withhold the information at issue under section 552.116. As our ruling is dispositive, we need not address the commission's remaining arguments against disclosure.

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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Lindsay E. Hale  
Assistant Attorney General  
Open Records Division

LEH/em

Ref: ID# 419216

Enc. Submitted documents

c: Requestor  
(w/o enclosures)