

# Texas Workforce Commission

A Member of Texas Workforce Solutions

Tom Pauken, Chairman

Ronald G. Congleton  
Commissioner Representing  
Labor

Andres Alcantar  
Commissioner Representing  
the Public

Larry E. Temple  
Executive Director

October 9, 2009

**VIA CERTIFIED MAIL 7002 0510 0002 9661 8377**  
and United States Mail

James Z. Turner, President  
Alta Colleges, Inc.  
2000 S. Colorado Blvd., Tower II – Suite 800  
Denver, Colorado 80222

Dear Mr. Turner:

RE: Westwood College–Online

The Texas Workforce Commission (TWC) has received information indicating that Westwood College–Online is operating as a career school or college, defined by Texas Education Code §132.001 as:

*any business enterprise operated for a profit or on a nonprofit basis that maintains a place of business within this state or solicits business within this state, that is not specifically exempted by this chapter, and:*

*(A) that offers or maintains a course or courses of instruction or study; or*

*(B) at which place of business such a course or courses of instruction or study are available through classroom instruction or by distance education, or both, to a person for the purpose of training or preparing the person for a field of endeavor in a business, trade, technical, or industrial occupation, or for avocational or personal improvement.*

If a business meets this definition, it must obtain a certificate of approval or an exemption prior to advertising or operating. As set forth in Texas Education Code §132.051, a career school or college may not maintain, advertise, solicit for, or conduct any program of instruction in Texas until it receives a certificate of approval from TWC.

Please note that if you are operating a career school or college and are not legally exempt or do not possess a certificate of approval, you are in violation of Texas law. If necessary, TWC will refer your school to the Attorney General of Texas, who may obtain an injunction to cease the school's operation. You could be liable for a civil penalty of \$1,000 for each day of operation, plus attorney fees and court costs.

Texas Education Code §132.055(10) requires the owner of a career school or college to be of good reputation. TWC's Career Schools and Colleges rule at 40 Texas Administrative Code §807.2(16) states in part that a person is considered to be of good reputation if the person does

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not own a school currently in violation of legal requirements. Therefore, failure to comply may jeopardize the current Certificates of Approval for your three Westwood College campuses in Texas.

**You must respond to this letter within 15 days of receipt with one of the following:**

- A. **CLOSED OPERATION:** If you elect to close the training operation, submit the enclosed Cessation of Operations Affidavit stating that the identified training operation has ceased.
- B. **EXEMPTION FROM TEXAS EDUCATION CODE:** If you elect to seek an exemption, submit a letter requesting an exemption from Texas Education Code §132.002, citing the specific exemption for which you are eligible. Exemptions are defined in §132.002. Please use the enclosed form, PS-017 General Exemption Guide, for providing the specific information required.
- C. **APPLICATION FOR CERTIFICATE OF APPROVAL:** If you elect to seek a certificate of approval, please provide the following:

Letter of Intent

Submit a letter to TWC stating that you desire to apply for a certificate of approval. A Career Schools and Colleges packet will be forwarded to you upon receipt of the completed form (PS-999 Career Schools and Colleges New School Packet Request) and the \$15 packet fee.

- Make a check or money order payable to “TWC–Career Schools and Colleges”
- Mail to:  
Texas Workforce Commission  
Career Schools and Colleges–Controller  
101 East 15th Street  
Austin, Texas 78778-0001

Application

You have 60 days from receipt of the application packet to complete all required documentation. Forward the completed application and the required fee to the above address.

Fees

Original Certificate Fee: \$1,001 (Small School) or \$3,000 (Large School). You may submit the entire amount, or make arrangements for an installment plan by contacting Nora Perez at (512) 936-3253.

Additionally, Courtland Walker is a Texas resident named as plaintiff in the class arbitration. As set forth in Texas Education Code §132.051, any payment for educational services obtained from a career school or college that does not hold a certificate of approval is unenforceable in any action brought on the note, instrument, or contract. Therefore, I am substantiating Mr. Walker’s

Mr. James Z. Turner

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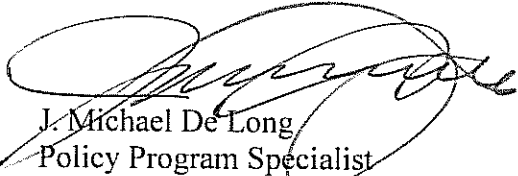
complaint and instructing the school to make a full refund of all tuition, fees and interest charges within 15 days of receipt of this letter. You must provide TWC with documentation of this refund no later than December 15, 2009.

Finally, Mr. Bill Ojile stated in his October 1, 2009, e-mail that the school had received six complaints from five Texas residents. Please provide copies of those complaints.

If you require assistance in responding to this letter, you may contact me by telephone at (512) 936-3104, by fax at (512) 936-3111, or by e-mail at [michael.delong@twc.state.tx.us](mailto:michael.delong@twc.state.tx.us).

**Failure to respond to this notice within 15 days of receipt of this letter will result in action by TWC.**

Sincerely,



J. Michael De Long  
Policy Program Specialist  
Career Schools and Colleges

Enclosures (3)

cc: Andy Wexler, Compliance Coordinator, ACICS  
Bill Ojile, Senior VP, Chief Legal & Compliance Officer, Westwood College



November 30, 2009

Mr. J. Michael DeLong  
Policy Program Specialist  
Career Schools and Colleges  
Texas Workforce Commission  
101 E. 15<sup>th</sup> St.  
Austin, TX 78778-001

Re: Westwood College Online

Dear Mr. DeLong:

This will confirm several recent conversations between the Texas Workforce Commission (“TWC”) and Westwood College Online (“WCO”), and responds to your October 9, 2009 correspondence concerning the enrollment of Texas residents by WCO.

As we understand it, TWC maintains that WCO, which is properly licensed by the State of Colorado and does not maintain a place of business, conduct programs of instruction or solicit students in Texas, must nevertheless obtain a certificate of approval from the TWC in order to enroll Texas residents as students in online courses offered from WCO’s out-of-state locations. We understand this to be the TWC’s position even if the facts are that WCO does not advertise into or solicit students from Texas, and its online students who are Texas residents are enrolled only after the students first initiate contact with WCO over the internet. We also understand TWC maintains that a certificate of approval is required although WCO offers associate, bachelor, and master’s degree programs, and does not offer certificate or diploma programs.

While WCO respectfully disagrees with TWC’s position, WCO has at all times acted (and will continue to act) in good faith as evidenced by the proposed solution discussed in more detail below. WCO’s good faith is further evidenced by the fact that in 2004 it previously sought (and secured) advice from the Texas Higher Education Coordinating Board that supports WCO’s position.

Without conceding its position that it has not violated any provision of the Texas Education Code and that it is not liable under any theory in any amount, and with a full reservation of its right to modify its position at any time, WCO makes the following proposal to satisfy the concerns of the TWC at this time:

Texas residents interested in online programs will not have the ability to submit their contact information to WCO for follow-up contact by WCO admissions representatives, and WCO will not enroll persons who identify themselves as Texas residents. Texas residents who express an interest in online programs will be directed to one of Westwood’s separately-owned and operated campuses in Texas (Dallas, Fort Worth and Houston) that are already licensed by the TWC, and through which Westwood can offer students an opportunity to take a portion of their program online.

Mr. J. Michael DeLong

November 30, 2009

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WCO intends to make this operational change as soon as TWC notifies WCO that this operational change will satisfy the issues raised in your October 9, 2009 correspondence. After making this operational change, WCO will not enroll persons who identify themselves as Texas residents without first communicating with the TWC.

WCO makes this proposal to address the immediate concerns of the TWC without prejudicing the positions of either the TWC or WCO, and to avoid costly, time-consuming litigation with TWC. It also demonstrates WCO's continued good faith efforts to satisfy concerns of the TWC.

As you know, former WCO student Courtland Walker filed a putative class action lawsuit for alleged violations of Texas Education Code Section 132.051(b). WCO intends to vigorously defend that matter, and will assert that the Texas Education Code does not require the licensure of WCO. The TWC should read no inconsistencies into the willingness of WCO to make prospective operational changes to satisfy the concerns raised by TWC in its October 9, 2009 correspondence and any positions WCO may take in defending the *Walker* lawsuit.

Of course, now that Mr. Walker has filed his lawsuit, TWC should let the court system sort out that dispute. Mr. Walker's assertion of that lawsuit militates against any further insistence by the TWC that he receive an immediate refund. Whether he is entitled to any relief should be (and will be) decided by the courts, and, in the meantime, he is represented by counsel.

Finally, this letter and WCO's proposed resolution are submitted in the context of our ongoing mutual efforts to settle threatened action by the TWC. WCO neither concedes that it has engaged in any wrongdoing nor that it is liable for any remedy under any theory. WCO reserves all its rights and arguments and, should the need arise, it will vigorously defend itself. However, WCO stands ready to promptly discuss all the issues raised in this letter and urges the TWC to maintain a constructive dialogue.

Sincerely,



William M. Ojile, Jr.  
Senior Vice President  
Chief Legal & Compliance Officer

cc: John Moore (TWC)  
Joseph E. Gurubatham, Ed.D. (ACICS)  
Shameka Erby (ACICS)

# Texas Workforce Commission

A Member of Texas Workforce Solutions

Tom Pauken, Chairman

Ronald G. Congleton  
Commissioner Representing  
Labor

Andres Alcantar  
Commissioner Representing  
the Public

Larry E. Temple  
Executive Director

December 7, 2009

**VIA E-MAIL AND CERTIFIED MAIL 7002 0510 0002 9661 8001**

Mr. William M. Ojile, Jr., Senior Vice President  
Chief Legal and Compliance Officer  
Westwood College  
2000 S. Colorado Blvd., Tower II – Suite 800  
Denver, Colorado 80222

RE: Westwood College Online

Dear Mr. Ojile:

This correspondence is in response to your letter of November 30, 2009, offering your opinion on the status of Westwood College Online (WCO) in Texas and proposing a solution to the current issue.

I would like to reiterate that the nature of WCO's online national marketing, the lack of barriers preventing Texans from expressing interest and enrolling in WCO programs, and solicitation of Texans in the form of follow-up calls from WCO representatives, all place WCO under the Texas Education Code, Chapter 132, definition of a career school or college subject to regulation. The Texas Workforce Commission's (TWC) dealings with WCO have been based consistently on this definition, which was communicated in a July 16, 2009, e-mail to you from John Moore, director of TWC's Regulatory Integrity Division. Additionally, as the administrator of Chapter 132, TWC is not subject to past comments or determinations made by the Texas Higher Education Coordinating Board.

TWC appreciates your consideration of ways in which WCO might achieve compliance, including your proposal to close admission to Texas residents. This change would address the matter, as long as WCO's process continuum of online marketing, follow-up solicitation and enrollment ensures that Texas residents are (1) identified, and (2) prevented from enrolling in WCO.

The intent of your references to "persons who identify themselves as Texas residents" is unclear to us—your process should actively identify and confirm state of residence. We would appreciate clarification of the statement: "WCO will not enroll persons who identify themselves as Texas residents without first communicating with TWC." This appears to contradict your commitment to stop enrolling Texas students in WCO.

Redirecting Texas residents who inquire about WCO to a Texas-based Westwood campus is acceptable, bearing in mind that students may be solicited for enrollment only by registered representatives for approved programs in schools granted TWC certificates

William M. Ojile  
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December 7, 2009

of approval. Many TWC-approved career schools have programs that are exclusively or partially online.

We will allow current Texas resident students of WCO to continue their current program with WCO to ensure there will be no disruption of their education and no changes to their graduation requirements.

Essential to TWC's regulatory authority to protect Texans is TWC's ability to receive and investigate complaints made by Texas students against any career school or college subject to TWC regulation under the Texas Education Code, Chapter 132—whether or not that school has a TWC-issued certificate of approval or exemption. When we receive a complaint regarding an unlicensed school, we typically direct the school to make a complete refund to the student. If TWC receives complaints regarding WCO from Mr. Walker or any other Texas resident student, we will act consistently with our established policy regardless of the existence of a lawsuit involving the student and the school.

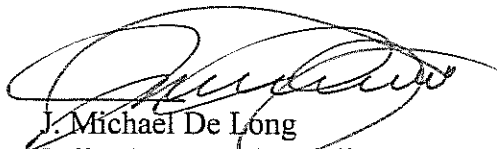
Before considering this matter resolved, we require:

- a response to this letter providing requested clarifications;
- the completed enclosed affidavit, indicating the date that enrollment of Texas residents in WCO has ceased; and
- the timeline for completion of the education of Texas resident students currently enrolled in WCO. Please notify us of any change to the educational program or method of delivery of education to these students.

If we do not receive a response providing all of the above within 10 days of receipt of this letter, we will begin the steps necessary to ensure compliance with the law. We sincerely appreciate your cooperation.

If you have questions, please contact me at [michael.delong@twc.state.tx.us](mailto:michael.delong@twc.state.tx.us) or at (512) 936-3104.

Sincerely,



J. Michael De Long  
Policy Program Specialist  
Career Schools and Colleges

Enclosure/Attachment

cc: Andy Wexler, Compliance Coordinator, ACICS



December 17, 2009

Mr. J. Michael DeLong  
Policy Program Specialist  
Career Schools and Colleges  
Texas Workforce Commission  
101 E. 15th St.  
Austin, TX 78778-001

Re: Westwood College Online

Dear Mr. DeLong:

Westwood College Online (WCO) is in receipt of the December 7, 2009 correspondence from the Texas Workforce Commission (“TWC”), and the following responds to the requests for clarification and additional information made by TWC in that correspondence.

Upon receipt of your December 7 correspondence, WCO began taking steps to stop enrolling Texas residents and to put in place processes that will prevent the future enrollment of Texas residents. Changes will be made to the Westwood College website in the next 30-60 days that will disable the ability of individuals with Texas zip codes to attempt to enroll at or to submit contact information to WCO. Such individuals will receive a message similar to the following:

**Westwood College’s online campus is not currently accepting Texas residents for its programs. If you are a Texas resident interested in attending Westwood College and taking some courses online, please select one of our campuses in Dallas, Fort Worth or Houston.**

Until such time that Westwood can implement systems changes to prevent Texas residents from enrolling at or submitting contact information to WCO, Westwood will put in place manual processes and oversight. All WCO admissions representatives have been advised of these changes, and Westwood has also informed third-parties affiliates and other channels of this change.

To make clear, Westwood implemented the operational changes described above effective close of business December 8, 2009. Absent a change in position by the TWC on its interpretation of the statute, a contrary judicial ruling or a legislative change to the regulatory scheme, Westwood College Online will not enroll Texas residents in the future without prior approval by the Texas Workforce Commission. By taking these actions, Westwood does not concede that the law requires these changes. As we have maintained throughout, these operational changes are being made in order to accommodate TWC’s concerns and obviate disputed issues.

Mr. J. Michale DeLong

December 17, 2009

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Westwood appreciates the decision of the Texas Workforce Commission to allow Texas residents currently enrolled at WCO to complete their education at WCO. Attached is a timeline that shows the progress of Texas residents enrolled at WCO by term.

Finally, attached is the Affidavit of William M. Ojile, Jr. indicating that WCO has ceased enrollment of Texas residents as of December 8, 2009.

Please do not hesitate to contact me with any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "William M. Ojile, Jr.", written in dark ink.

William M. Ojile, Jr.  
Senior Vice President  
Chief Legal & Compliance Officer

cc: John Moore (TWC)  
Joseph E. Gurubatham, Ed.D. (ACICS)  
Shameka Erby (ACICS)

STATE OF COLORADO )

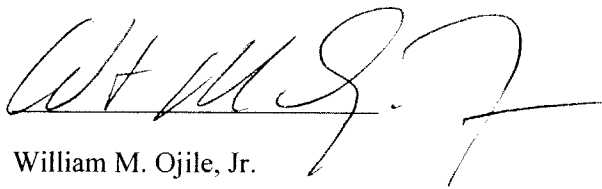
COUNTY OF DENVER )

AFFIDAVIT OF WILLIAM M. OJILE, JR.


BEFORE ME personally appeared William M. Ojile, Jr., and after being duly sworn, he deposes and states as follows:

1. My name is William M. Ojile, Jr., and I am the Senior Vice President – Chief Legal & Compliance Officer of Westwood College, Inc., a Colorado corporation.
2. I am a duly elected officer of Westwood College, Inc.
3. I am of sound mind, capable of making this Affidavit, and personally acquainted with the facts stated herein.
4. Westwood College Online implemented a policy against enrolling Texas residents as students as of close of business December 8, 2009. If we learn of a Texas resident who, for whatever reason, manages to enroll after that date, Westwood College Online will immediately cancel the enrollment.
5. Absent a change in position by the TWC on its interpretation of the statute, a contrary judicial ruling or a legislative change to the regulatory scheme, Westwood College Online will not enroll Texas residents in the future without prior approval by the Texas Workforce Commission.
6. By taking these actions, Westwood does not concede that the law requires these changes. As I have maintained on behalf of Westwood, these operational changes are being made in order to accommodate TWC's concerns and obviate disputed issues.

FURTHER YOUR AFFIANT SAYETH NOT.

  
William M. Ojile, Jr.

Sworn and subscribed to before me on this 17<sup>th</sup> day of December, 2009.

  
Lori L. Feld  
Notary Public

My commission expires: 5/18/2013