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December 21, 2020

Office of the Attorney General
Open Records Division
209 W. 14th Street
Austin, Texas 78701

RE: **Response to Comments from Requestor dated December 18, 2020**
Collin County Community College: Public Information Act Request,
October 13, 2020
(Collin College Reference # CC0010)

Dear Attorney General:

On October 27, 2020 Collin County Community College District n/k/a Collin College (“Collin College” or “the College”) requested a decision under the Public Information Act (“the Act”), Chapter 552 of the Texas Government Code, concerning information requested by requested by Adam Steinbaugh (the “Requestor”) on October 13, 2020. Collin College sought to withhold information under Sections 552.103, 552.107 and Texas Rule of Evidence 503.

Mr. Steinbaugh then submitted a response to the College’s letter on November 10, and additional comments on December 2, December 3, and December 18, 2020. The College responds to the Requestor’s most recent comments and respectfully shows your office as follows:

Requestor Mistakenly Relies on Section 552.301(e-1) and OR2011-14407

In his latest comments, Mr. Steinbaugh incorrectly references Section 552.103(e-1) of the Act in support of his arguments. There is no Section 552.103(e-1) in the Act. However, solely for purposes of responding to the underlying arguments, the College presumes that Mr. Steinbaugh is, instead, referring to Section 552.301(e-1) of the Act.

Mr. Steinbaugh’s reliance on this separate section as support for his contention that he is entitled to receive supporting exhibits filed with the College’s initial request to your office is also misplaced. Section 552.301(e-1) merely requires a governmental body to provide written comments to a Requestor under the 15-day deadline for submitting a letter to the Attorney General. Specifically, this section states that a governmental body “shall send a copy of those

comments to the person who requested the information from the governmental body not later than the 15th business day after the date of receiving the written request.” Section 552.301(e-1). This section does not include any requirement to provide supporting exhibits to a Requestor. As previously demonstrated, Collin College has provided Requestor copies of its original letter with comments and additional responses in accordance with the Act.

Further, Requestor’s reliance on OR2011-14407 is again misplaced as that ruling is highly distinguishable from the facts at issue. In that case, a governmental body directly referred the Attorney General to an exhibit which specifically contained its argument. *See id.* While the requestor acknowledged the receipt of that exhibit, the Attorney General’s office found that a second exhibit also contained “the substance of the [governmental body’s] arguments under Sections 552.103 and 552.108 . . . ” *See id.* at *2. Here, the substance of the College’s arguments is clearly contained within its original letter filed with the Attorney General on October 27, 2020, with copy provided to Requestor on the same day. That October 27th letter provides applicable legal provisions, a lengthy recitation of relevant facts, and detailed analysis as to why the College reasonably anticipated litigation as of the date of the Request. As explained previously, the College included brief remarks on the exhibits merely to explain the relevance of the exhibits to the Attorney General’s office, and those remarks are consistent with arguments already present in the October 27th letter.

Section 552.103 Considers the Totality of Circumstances

While Mr. Steinbaugh asserts he could not address an argument regarding a complaint submitted by an external party due to the partial redaction of a footnote in the College’s November 16th response, that response states clearly (and in unredacted form) that “complaints submitted to the College regarding the employee’s comments” are one of the bases for anticipating litigation. Section 552.103 requires evaluation of the “totality of the circumstances” when considering whether litigation was anticipated. *See* TEX. ATT’Y GEN. OP. OR2020-29701 (2020); TEX. ATT’Y GEN. OP. OR2020-29390 (2020). When viewing these complaints in addition to the controversy caused by the employee’s initial public comments, the employee’s multiple representations that she had an attorney, and the College’s receipt of a demand letter, litigation was reasonably anticipated in this matter.

As noted above, in its November 16th letter, the College explained in a partially redacted footnote the underlying substance of an external complaint that is responsive to a different PIA request upon which the College is currently seeking a ruling from the Attorney General’s office. This is not information that Mr. Steinbaugh is seeking as part of his Request. The College did not want to risk public disclosure of the substance of that information pertaining to an entirely separate public information request that could jeopardize its position in that separate request, in accordance with the Act. The three sentences at issue in the footnote discuss the substantive

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nature of the information the College seeks to protect, such as the parties involved and the methods of communication chosen by the employee.¹

In addition, the College first included the information described in the footnote in its November 16th letter in response to Mr. Steinbaugh's comments. Mr. Steinbaugh's suggestion at this stage that a dispute over the redaction of a footnote in a later response would somehow invalidate the entirety of the arguments in the College's original October 27th letter on procedural grounds is unconscionable.

Regarding any other points, the College rests on its previously submitted arguments. Thank you for your consideration. Please do not hesitate to contact me directly with questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Pete Thompson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Pete Thompson

CC: Requestor (via email)(without enclosures)

Enclosures

¹ Mr. Steinbaugh specifically argues whether all three sentences should be redacted. All three sentences, when read together, describe substantively the communication at issue. The first two sentences provide specific, critical details regarding the communication. But it should be noted that the third redacted sentence is included in unredacted form in the College's Dec. 7th response previously provided to Mr. Steinbaugh. ("The College reasonably believed that such conduct exposed the College and/or the employee to anticipated legal claims from external parties."). The position taken by the Requestor in describing an inaccurate fact for your office is again misleading.