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December 7, 2020

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

RE: **Response to Comments from Requestor dated December 2, 2020 and December 3, 2020**
Collin County Community College: Public Information Act Request,
October 13, 2020
(Collin College Reference # CC0010)

Dear Attorney General:

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

On November 10, 2020, Mr. Steinbaugh submitted a response to the College’s letter. On November 16, 2020, the College then filed a reply to Mr. Steinbaugh’s letter. On December 2, 2020, the College received notice that Mr. Steinbaugh submitted a second set of written comments to your office. On December 3, 2020, the College received additional notice that Mr. Steinbaugh submitted a third set of written comments to your office.

The College’s Compliance with the Act

The College first responds the commentary in Section III of Mr. Steinbaugh’s December 2nd letter and his December 3rd letter in reference to the written arguments submitted by the College and provided to him as required under Section 552.301 of the Act.

In accordance with Section 552.301(d)(2), the College provided Mr. Steinbaugh a copy of its original written arguments filed with the Attorney General on October 27, 2020 – which is the

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same day the College electronically filed its letter through the Attorney General's online portal. *See Exhibit Q*, Email Correspondence Sent to Requestor. Similarly, the College provided Mr. Steinbaugh a copy of its response letter to his comments on the same day it filed that response on November 16, 2020. *See Id.* In accordance with Section 552.301, portions of these written communications were redacted to protect specific discussion of the responsive information.

In Mr. Steinbaugh's letter dated December 2, 2020, when addressing whether the College provided information to him that it shared with the Attorney General, Mr. Steinbaugh misrepresents to your office that, "the College did not do so." Such statement is blatantly false. As explained above, the College timely provided Mr. Steinbaugh with a copy of its original written arguments and response letter in accordance with Section 552.301. The College has been in full compliance with the applicable requirements of Section 552.301.

Perhaps upon realization of such a mistake, in the December 3rd letter, Mr. Steinbaugh clarifies that he did not receive copies of supporting exhibits referenced in the College's communications to your office. Mr. Steinbaugh's statements are again misleading. The Attorney General's office has previously held that a governmental body complies with Section 552.301(d)(2) if it provides a copy of its written arguments to a requestor, **even if does not provide copies of all exhibits to that requestor.** *See* TEX. ATT'Y GEN. OP. OR2004-10228 (2004) (finding that while requestor was not provided copies of certain exhibits, the governmental entity provided the requestor with a copy of its arguments, and thus complied with the procedural requirement of section 552.301(d)(2)). Because Collin College timely provided Requestor a copy of its written arguments and response letter regarding same, the College has met its obligations under Section 552.301.

In addition, the exhibits at issue include public social media posts made by the College employee at issue, whose interests Mr. Steinbaugh advocates, an email exchange involving the employee, a demand letter that Mr. Steinbaugh himself submitted to the College, and Mr. Steinbaugh's original public information request submitted to the College. All of these exhibits were available to Mr. Steinbaugh either directly because he created them, or because they related to public social media posts created by the College employee. In addition, both the College's original letter to your office and the Nov. 16th response letter describe the content of these exhibits in detail, which Mr. Steinbaugh could ascertain by reviewing the College's written arguments. The College included brief remarks on the exhibits merely to explain the relevance of the exhibits to your office, and those remarks are consistent with arguments already contained in the letter.

The College's Reliance on Prior Arguments

Regarding Mr. Steinbaugh's other arguments in reference to Section 552.103, the College rests on its prior arguments submitted in its original letter and Nov. 16th response letter. These arguments include that the College legitimately and reasonably anticipated litigation when the original Request was received on October 13th, not only from the College employee but also from an external party – the latter argument that Mr. Steinbaugh failed to address in his latest comments. In addition, the College notes that under Section II of the Mr. Steinbaugh's

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December 2nd comments, he acknowledges that his organization's advocacy work includes direct legal representation. The most recent comments by Mr. Steinbaugh merely reinforce the fact that the College employee at issue engaged in the following affirmative statements lending credence to the reasonableness of the College's anticipation of litigation:

- **Oct. 10** – “**All lawyered up.**”
- **Oct. 10** – “No, I'm not litigious. **Just ready to protect my rights** as both a private citizen and a public employee ...”
- **Oct. 12** – “The college President replied to this email (only to me), but I'll spare you all reading that one. **It will go to my lawyers.**”

Based on these unequivocal statements, the College reasonably believed that the employee in question was considering legal action in reference to the public controversy generated by her online comments and, thus, the College reasonably anticipated litigation under Section 552.103 of the Act. In addition, as previously noted, the College's reasonable reliance is also based on the potential for third-party claims [REDACTED]

[REDACTED]. The College reasonably believed that such conduct exposed the College and/or the employee to anticipated legal claims from external parties.

Thank you for your consideration of this additional information. Please do not hesitate to contact me at 940-704-3774 with questions or concerns.

Sincerely,



Pete Thompson

CC: Requestor (via email)(without enclosures)

Enclosures