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William R. Mabile, III  
Andrews, Crabtree, Knox & Andrews, LLP  
1558 Village Square Boulevard  
Suite 1  
Tallahassee, FL 32309

Dear Mr. Mabile,

Mr. Hugh Taylor has contacted the First Amendment Foundation expressing concerns regarding Tallahassee Community College's policy that all public records requests be made to the central, main campus office located in Tallahassee, Florida. On October 16, 2014, Mr. Taylor made an in-person request for a document in the custody of the College's Wakulla Center in Crawfordville. He was turned away and told he must make his request 22 miles north at the Communications Office on the College's main campus in Tallahassee. This matter was brought to our attention after Mr. Taylor received a letter from TCC's General Counsel instructing Mr. Taylor "not to return to the Wakulla Center to request public records." (Letter from Andrews, Crabtree, Knox & Andrews, October 29, 2014).

From the documentation provided us, it is our understanding that the record requested is maintained and available in the Wakulla Center. Thus, the College's policy amounts to an unnecessary, bureaucratic barrier to Mr. Taylor's right of access. An unencumbered right of access to public records is guaranteed in Article 1, section 24(a) of the Florida Constitution and provided for in chapter 119 of the Florida Statutes. It is our opinion that the College's policy undermines these legal guarantees and effectively dissuades citizens from exercising their constitutional and statutory right of access to public records. We therefore request that Tallahassee Community College amend its policy to conform to the requirements of Florida's Public Records Law.

Section 119.07(1)(a), F.S. specifies that "Every person who has custody of a public record shall permit the record to be inspected and copied by any

person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public records.” (emphasis added). The term “custodian of public records” is defined in section 119.011(5) as “the elected or appointed officer charged with the responsibility of maintaining the office having public records, or his or her designee.” This allows the custodian of public records, or a person having custody of public records, to designate another officer or employee of the agency to permit the inspection and copying of public records. Most importantly, Florida courts have found that the statutory reference to the “custodian of public records” does not alter the “duty of disclosure” imposed by section 119.07(1)(a) upon “[e]very person who has custody of a public record.” *Puls v. City of Port St. Lucie*, 678 So. 2d 514 (Fla. 4<sup>th</sup> DCA 1996) (emphasis in original).

Furthermore, even in the event that a record in the custody of the Wakulla Center is also maintained by another department, the Wakulla Center is not relieved of its duty to produce the record. The fact that a particular record is also maintained by another agency does not relieve the custodian of the obligation to permit inspection and copying. AGO 86-89. Florida law makes clear that agencies are prohibited from imposing rules or conditions which restrict or circumvent a person’s right of access to public records. See AGO 75-50.

Accordingly, if Mr. Taylor, or any requestor, makes a public records request of the Wakulla Center and the Center’s staff has custody of the record, the requestor cannot be required to make that request at the Communications Office. The College may not adopt a policy that requires those requesting public records to make their requests through one central location; such a policy inhibits a citizen’s right of access and impedes the spirit of openness embedded in the Florida Constitution. We strongly urge Tallahassee Community College to reconsider its policy and adapt it to comport with current law and facilitate open access to public records.

Sincerely,

A handwritten signature in blue ink, appearing to read 'B.A.P.', is written over the word 'Sincerely,'.

Barbara A. Petersen, President