

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
LUBBOCK DIVISION**

KEVIN N. BASS,

Plaintiff,

v.

TEXAS TECH UNIVERSITY HEALTH  
SCIENCES CENTER, et al.,

Defendants.

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Civil Action No. 5:25-cv-00244-H-BV

**DECLARATION OF KEVIN N. BASS IN SUPPORT OF REPLY  
IN SUPPORT OF MOTION FOR LEAVE TO FILE THIRD AMENDED COMPLAINT**

I, Kevin N. Bass, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct:

1. I am the Plaintiff in this action and submit this declaration in support of my Reply in Support of the Motion for Leave to File Third Amended Complaint (Doc. 32).

2. This declaration provides a factual record of my efforts to inspect my education records under FERPA, 20 U.S.C. § 1232g, and TTUHSC's responses to those efforts. All dates and communications described below are documented in the attached email exhibits.

**I. FERPA REQUEST AND INITIAL DELAYS**

3. On October 2, 2025, I submitted a FERPA request to TTUHSC's Office of the Registrar to inspect and review my education records. (Ex. A.)

4. TTUHSC did not acknowledge the request until November 17, 2025 — 45 days after submission, the outer limit of the period allowed under 34 C.F.R. § 99.10(b). (Ex. B.)

5. On December 3, 2025, TTUHSC informed me that "staff is limited" and proposed no specific inspection date. (Ex. C.)

6. On December 11, 2025, TTUHSC offered a single one-hour Zoom session for the following day. During that session on December 12, TTUHSC staff indicated the responsive set consisted of approximately 2,000 records. One hour was manifestly insufficient to review 2,000 records. (Ex. D.)

## **II. POSTPONEMENTS AND CANCELLATIONS**

7. On December 19, 2025, TTUHSC offered three in-person inspection days: December 29, 30, and 31, 2025. (Ex. E.)

8. On December 23, 2025, TTUHSC postponed those sessions to January 5, 6, and 8, 2026, citing "logistical issues." (Ex. F.)

9. The January 5–8 inspection sessions took place. I was required to be escorted into the TTUHSC building, provided a designated room, and given a university-controlled laptop to view records. I was not permitted to bring my own device or make copies during the session. (Ex. G.)

10. On January 22, 2026, TTUHSC scheduled a follow-up session for January 23. Later that same day, TTUHSC canceled the session due to inclement weather and a telework directive. No replacement date was offered. (Ex. H.)

## **III. OUTSTANDING ITEMS AND OBSTRUCTION**

11. Following the January 5–8 sessions, I identified 22 documents that were referenced in the produced records but not included in the production. On January 12, 2026, I sent a detailed punch list to the Registrar. (Ex. I.)

12. On January 20, 2026, TTUHSC responded by requesting that I re-identify the 22 documents by TTUHSC's own production numbers — numbers that TTUHSC itself assigned and possessed. (Ex. J.)

13. On January 27, 2026, I provided the requested production numbers. I have received no further response regarding these 22 outstanding documents. (Ex. K.)

#### **IV. DISCLOSURE LOG**

14. On January 9, 2026, I requested the record of disclosures of my education records maintained under 34 C.F.R. § 99.32. (Ex. L.)

15. On January 20, 2026, TTUHSC responded: "Under FERPA there is no requirement to maintain a disclosure log unless and until such log is needed to document disclosures. Our office has provided for your review all documents maintained as part of your education record." (Ex. M.)

16. This response indicates that TTUHSC has not maintained any log of third-party disclosures of my education records, despite the events at issue in this litigation — including disclosures to hearing officers, counsel, administrators, and external entities.

#### **V. TRANSCRIPT AMENDMENT REQUEST**

17. On December 30, 2025, I submitted a written request under TTUHSC HSC OP 77.13 and Tex. Gov't Code § 559.004 to amend and/or annotate a transcript notation reading "Administrative Dismissal Effective 01-11-2024." (Ex. N.)

18. On January 20, 2026, TTUHSC rejected the request, stating I had "not followed the procedures outlined in HSC OP 77.13" without identifying what procedural requirement was missing. (Ex. O.)

19. On January 23, 2026, I responded requesting identification of the specific procedural deficiency. (Ex. P.)

20. On January 26, 2026, I submitted a Step-2 written request under OP 77.13 to the appropriate institutional official. (Ex. Q.) I have received no response.

## **VI. MARCH 2026 REQUEST AND EXPLICIT DENIAL**

21. On March 3, 2026, I submitted a request for additional FERPA inspection sessions to continue the review that began five months earlier. (Ex. R.)

22. On March 12, 2026, Assistant Attorney General Scott D. Smith, litigation counsel for TTUHSC in this action, responded by email denying the request. (Ex. S.) AAG Smith stated: "TTUHSC will not schedule additional FERPA inspection sessions outside the litigation process at this time." He directed me to "pursue [records requests] through the discovery process in the litigation."

23. AAG Smith further instructed me to "not contact TTUHSC employees directly" and to "direct any communications concerning your records requests, the transcript issue you referenced, or any related matters to me only."

24. AAG Smith's email also stated that TTUHSC "will pause any processing" of my pending transcript amendment request "until the litigation is resolved."

25. AAG Smith's email contained a contradiction: he simultaneously asserted that "TTUHSC believes it has already provided access to education records consistent with its obligations under applicable law" and that further requests "should be pursued through the discovery process in the litigation." If FERPA obligations have been fully satisfied, there would be nothing left to redirect to discovery. If there are additional records that must be pursued through discovery, then FERPA access has not been fully provided.

26. On March 13, 2026, I sent a follow-up email to the TTUHSC Registrar (with a copy to AAG Smith) reiterating my outstanding FERPA request and providing updated availability for inspection sessions. (Ex. T.)

## **VII. FERPA COMPLAINT**

27. On December 19, 2025, I filed a FERPA complaint with the U.S. Department of Education's Student Privacy Policy Office (SPPO) regarding TTUHSC's denial and delay of access to my education records. (Ex. U.)

28. I filed supplemental submissions to the SPPO on December 25, 2025 (Supplement #2), January 9, 2026 (Supplement #3), March 3, 2026 (Supplement #4), and March 13, 2026 (Supplement #5), each documenting ongoing access delays and unresolved production deficiencies. Supplement #5 specifically documented AAG Smith's March 12, 2026 letter as the institution's explicit, written announcement of a policy to deny further FERPA access.

29. To my knowledge, the SPPO complaint remains pending.

## **VIII. IMPACT ON THIS LITIGATION**

30. The evidence supporting the proposed Third Amended Complaint was obtained during the limited inspection sessions that TTUHSC made available. Had TTUHSC complied promptly with my October 2, 2025 FERPA request, this evidence would have been available months earlier — and the proposed amendments would have been filed before Defendants' Motion to Dismiss.

31. The delay in amendment is attributable entirely to Defendants' delay in providing access to records that are, by federal law, mine to inspect. AAG Smith's March 12, 2026 letter now confirms that Defendants intend to provide no further FERPA access at all — while simultaneously arguing to this Court that the case should be dismissed before discovery opens.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 23, 2026.

/s/ Kevin N. Bass

Kevin N. Bass

[REDACTED]

[REDACTED]

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