

# Access to university foundation records

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University foundations are non-profit entities that receive donations from private citizens and corporations to benefit the schools with which they are associated. Over the years, many university foundations have grown into multi-million dollar organizations tasked with several fundraising missions: raising money for new or existing academic programs, alumni activities, scholarships, memorial funds, fellowships, endowed chairs, internships and the construction or renovation of facilities. They may also accept gifts-in-kind, such as art, laboratory equipment, securities and real estate.<sup>1</sup>

How this money is raised and how it is spent can play an important role in shaping university policies and student life. Students, taxpayers and donors — often relying on the news media — all have a keen interest in tracking a foundation's activity.

While foundations have undeniably benefited the universities they support, multiple reports of questionable, excessive and at times scandalous spending have highlighted the need for vigilant public scrutiny:

- At Pennsylvania's East Stroudsburg University, reporting by the *Pocono Record* during 2008-09 detailed discrepancies in the way the university foundation doled out scholarship money, and raised questions about whether the foundation's former director — who was sued in February 2009 by six former students, alleging that the director pressured them for sex — used foundation money to cultivate inappropriate relationships with students.<sup>2</sup>

- In California, the Sonoma State University Academic Foundation was investigated by the state attorney general after a series of stories in the *Santa Rosa Press Democrat* disclosed that the SSU Foundation made unorthodox personal loans to clients of a banker on the foundation's board — and loaned the board member himself \$1.25 million, which he was unable to fully repay.<sup>3</sup>

- Allegations of misuse of foundation money at the University of Idaho led to civil suits, state and federal criminal investigations, and a state bar probe into three lawyers involved in the financing of a proposed branch campus complex called University Place. A former university vice president pleaded guilty to misuse of state funds and was sentenced to probation for his role in secretly diverting foundation money to prop up the financially troubled \$136 million project.<sup>4</sup>

- *The Atlanta Journal-Constitution* reported in 2005 that University System of Georgia Foundation donor lists — which were disclosed only after a legal battle — revealed that colleges awarded companies lucrative contracts after they made large donations to a fund that supplemented the university chancellor's salary.<sup>5</sup>

- At Iowa State University, it was revealed after an independent audit in 1999-2000 — and considerable public pressure — that the ISU Foundation was still paying a former football coach, who resigned in 1994, over half-a-million dollars a year as part of a deferred compensation contract payable over 20 years. (While actually employed by the university, the coach's annual salary was \$111,197.<sup>6</sup>)

- At Florida Atlantic University, a 2003 investigation revealed that its foundation had set aside \$42,000 to purchase a red Corvette for the school's outgoing president.<sup>7</sup>

- At Bowie State University in Maryland, *The Washington Post* reported that an annual audit discovered that its foundation had, among other things, spent its money to fund a cruise for foundation employees and donors, and purchased high-priced Washington Redskins football season tickets for foundation employees.<sup>8</sup>

Despite such incidents, it can sometimes be difficult to obtain information about foundation donors and expenditures. In recent years, as foundations' assets have swollen and their influence upon university policy has become more pronounced, disputes between those seeking information and foundation officials struggling to maintain secrecy have become increasingly common.

State open-records laws that require public universities to disclose their records do not always apply in the same way to their foundations, because foundations are generally structured as private corporations, not as government agencies. This structure insulates huge areas of a public university's spending and fundraising from public oversight. (Of course, private colleges are not generally subject to state public-records laws, so their fundraising operations are likewise exempt, though — as described below — there may be alternative ways of getting at their financial information.)

Whether university foundations are extensions of public colleges and universities — and therefore subject to state open record laws — or more similar to private, non-profit corporations (which are not subject to these laws) is a hotly contested issue.

## State open-records laws

The applicability of a state open-records law to a public university foundation depends on the precise wording of the statute and its definition of what constitutes a “public body” or “public agency” covered by the law, which varies by state. Whether a university foundation is subject to open-records laws turns, in large part, on its relationship with the university; the closer the relationship, the more likely it is a foundation will be subject to state sunshine laws.

In determining the applicability of a state's open-records law to a public university foundation, the following factors are among those that may influence a court's decision: 1) whether the foundation shares the same directors with the university, 2) whether it uses university employees, 3) whether it uses university property or resources, 4) whether it receives state funds and 5) whether it is responsible for managing university assets. Unfortunately, courts have ranked the relative importance of each factor differently and one judge's analysis may not prevail in a neighboring jurisdiction. Moreover, as noted above, foundations have — not surprisingly — tended to fiercely guard their ability to secretly collect and allocate their funds and many have worked hard to organize themselves in a manner calculated to avoid having to comply with various public disclosure laws.

Even if a foundation is covered under an open-records law, the foundation may not have to make all its records public. For example, donor lists can sometimes be kept secret even if disclosure laws apply generally to university foundations. Some states, such as Indiana, South Carolina and Washington, have laws exempting disclosure of the identity of a donor of a gift made to a public agency if the donor requires anonymity as a condition of making the donation.<sup>9</sup> Many other states have exemptions in their open-records laws that protect individuals from “unwarranted” invasions of their privacy. University foundations have frequently argued that disclosing the names of donors would violate privacy and potentially dissuade some contributors. In response, journalists must convince a court that the benefit of disclosing donor lists and the public oversight of a foundation's fundraising activities outweighs the privacy rights of donors and any chilling effect on donations.<sup>10</sup>

## Other sources of information

Because getting information through an open-records law can be costly and time-consuming if a foundation is uncooperative, it is useful to identify other sources that may provide information on university foundations. First, many states require that nonprofit corporations submit an annual report giving donors an idea of how foundation money is spent and raised. Such reports should be fairly easily obtained from the foundation, with many even making them available through their websites. Second, the federal government requires that nonprofit organizations make their tax returns public.<sup>11</sup> An IRS Form 990 and the supporting schedules that go with it disclose a wealth of information, much of which may be of interest to campus journalists. The form can be obtained either through the IRS or inspected on the organization's premises. Alternatively, Guidestar.com maintains a free online database that includes records (often including the Form 990) about more than 1 million nonprofit organizations in the United States, including most university foundations. Third, where university foundations receive

state money, the foundations may be audited as part of the routine audit of the university. To find out whether such reports are available for your school's foundation, check with your state auditor's office. Finally, foundation records are sometimes also in the possession of the public university it benefits. When this occurs, student journalists should simply request the documents directly from the school, since its status as a “public agency” subject to the open-records law cannot be disputed.

## State-by-State Guide

Unfortunately, alternative sources are sometimes inadequate to investigate a foundation thoroughly, and it is necessary to seek more detailed records from the foundation itself. The following is a summary of various states' statutes, court decisions and attorney general opinions that have addressed the issue of applying open-records laws to public university foundations.

If your state is not mentioned, it is likely that the issue has not yet been specifically addressed. In such cases, you should first look to your state's open-records law to find its definition of a “public body.” Next, investigate and identify any connections between the university and foundation. Finally, familiarize yourself with cases and scandals in other states. This can help bolster your argument that there are good public policy reasons why a court should favor disclosure.

## State Laws

Some state legislatures have directly addressed the issue of whether their open-records law applies to public universities.<sup>12</sup>

**Colorado:** Financial expenditure records of university foundations are subject to the open records act. Names or other identifying information about specific donors and the amounts of donations are exempt.<sup>13</sup>

**Georgia:** The Georgia legislature voted in 2005 to make donor names non-public information, unless the donor has done business with the university within three years of the donation.<sup>14</sup> “Doing business” is defined as selling goods or services to the college worth more than \$10,000 over the preceding 12 months (either directly or through a business in which the donor has at least one-fourth ownership). This exception is intended to allow the public to police instances in which donations may be a quid pro quo for preferential treatment.

**Minnesota:** In Minnesota the names and gift ranges of donors to public university foundations are public information.<sup>15</sup> However, other information related to fundraising, including the specific amount of a donor's gift, the dates of the gift, letters from donors, research information about prospects and donors and donor financial or estate planning information, is exempt.

**Nevada:** In Nevada, university foundations are subject to open-records laws.<sup>16</sup>

## Court Decisions

### Records Disclosed

**California:** In *California State University, Fresno v. McClatchy Co.*, a California court of appeals found that a nonprofit, university-affiliated corporation (not the university's foundation) that helped raise money for California State University was exempt from the

state's open-record laws.<sup>17</sup>

The university itself, however, admitted that it was in possession of the documents sought by the *Fresno Bee*. The court held that because the university — which was a state agency — had the documents and they related to the conduct of public business, they were public records subject to the CPRA.<sup>18</sup>

The court also ruled that the interest in the public knowing if a donor “gained an unreasonable advantage at the expense of public dollars” outweighed any harm of disclosure, especially because the university did not present credible evidence that donations were conditioned on anonymity.<sup>19</sup>

**Florida:** In *Palm Beach Community College Foundation v. WFTV*, the court ruled that a college foundation was a state agency and its records subject to state public-records law.<sup>20</sup> Florida's public-records law defines the term “agency” broadly to include a “corporation, or business entity acting on behalf of any public agency.”<sup>21</sup> The foundation did not contest that it was a state agency and subject to Florida's open-records laws but unsuccessfully argued that it did not have to disclose the information pursuant to an exception to the law that has since been repealed.<sup>22</sup>

**Iowa:** In *Gannon v. Board of Regents of the State of Iowa*, the Iowa Supreme Court ruled that the Iowa State University Foundation was subject to the state's Freedom of Information Act.<sup>23</sup> Because the foundation raised money for the university and managed funds on its behalf, the court found the university was contracting with the foundation to perform a government function.<sup>24</sup> In ordering the foundation to disclose its records, the court noted “[s]uccessful fundraising and management is a very important, if not vital, function of the modern university and an integral part of its continuing viability.”<sup>25</sup>

**Kentucky:** In *University of Louisville Foundation v. Cape Publications*, a Kentucky appellate court found that the University of Louisville Foundation was covered under the Kentucky Open Records Act.<sup>26</sup> The court first looked to the text of the Open Records Act, which defines “public agency” to include an entity “created, and controlled by a public agency.”<sup>27</sup> After finding that the foundation was created by the University of Louisville, a state agency, the court then examined whether it was controlled by the university.<sup>28</sup> On one hand, the court noted that directors who were not part of the university controlled the foundation board. However, the record also showed that the state gave money to the university through the foundation. The court also found that “for the purposes of soliciting contributions, the University and Foundations... act as one.”<sup>29</sup> Finally, the court found that the foundation acted as “custodian and administrator” of gifts given to the university and was required to act on behalf of the university in carrying out its duties. Considering the above, the court ruled that the foundation was controlled by the university and thus subject to the state's Open Records Act.

The court then ruled that the Act's privacy provision did not create a blanket exemption for donor names. Rather, the court held that corporate donors' names could be excluded on a case-by-case basis if their privacy interest outweighed the public's interest in disclosure and openness.

It is worth noting that this case, decided in 2004, followed a similar ruling by the Kentucky Supreme Court about a decade before that Kentucky State University's foundation was covered

## A state-by-state look at case law on foundation transparency.

under the state open-records law.<sup>30</sup> The validity of that ruling was challenged, however, after state lawmakers changed relevant provisions of the open-records law.<sup>31</sup>

**Michigan:** In *Jackson v. Eastern Michigan University Foundation*, the court held that the foundation was a “public body” subject to the state's Freedom of Information Act (FOIA).<sup>32</sup> Under FOIA, a “public body” is defined, in part, as including: “[a]ny other body which is ... primarily funded by or through state or local authority.”<sup>33</sup> The court found that in 1992, the university transferred \$7.7 million into the foundation, which constituted a majority of its funds at the time.<sup>34</sup> Therefore, the court found, the foundation was a public body because it was primarily funded through the university.

**Ohio:** In *State ex. rel. Toledo Blade Co. v. University of Toledo Foundation*,<sup>35</sup> the Ohio Supreme Court ruled that the University of Toledo Foundation was subject to Ohio's open-records law.<sup>36</sup> The court held that the foundation was a public entity because it exercised a government function: it was responsible for “the solicitation and receipt of donations for the university, and keeping records of the activity.”<sup>37</sup> The court further held that there was a “significant public interest in knowing from whom donations come and how that relates to where the university, as a public institution, chooses to spend its money.”<sup>38</sup> Finally, in ordering that donor names also be disclosed, the court noted that the legislature did not create a privacy exception to the state's open-records laws; in the absence of a mandate from the legislature, the court refused to create a common-law exception.

**Pennsylvania:** In May 2010, a Pennsylvania court ruled in *East Stroudsburg University Foundation v. Office of Open Records*<sup>39</sup> that public university foundations in Pennsylvania must disclose how much money they raised, and let the public review minutes of foundation board meetings where university fundraising was discussed. The court applied a provision of Pennsylvania's Right-to-Know Law that extends not just to government agencies themselves, but also to private contractors performing governmental functions. The court ruled that any foundation records “directly” relating to fundraising on behalf of the university were public records, subject to disclosure after redaction of donors' names.

**South Carolina:** In *Weston v. Carolina Research and Development Foundation*, the South Carolina Supreme Court held that the university foundation was subject to the South Carolina Freedom of Information Act (FOIA).<sup>40</sup> The Act defines a public body, in part, as “any organization, corporation, or agency supported in whole or in part by public funds or expending public funds.”<sup>41</sup> The court listed four transactions showing the foundation was supported by public funds and thus subject to FOIA: (1) the foundation received part of the proceeds when the university sold a hotel; (2) the foundation accepted federal grant money to help pay for the construction of a university building, using university employees to help carry out the project; (3) the foundation accepted grants and real estate from South Carolina cities to build another university building; and (4) the foundation kept a portion of proceeds derived from research contracts with university employees.

*Records Not Open*

**Indiana:** In *State Board of Accounts v. Indiana University Foundation*, a state appellate court ruled that the IU Foundation was not a “public agency” covered by the Indiana Public Records Act.<sup>42</sup> However, the court left the door open for future arguments that the Act applies to university foundations.<sup>43</sup> The term “state agency” in the Public Records Act has many definitions, including one that defined a state agency as any entity that is subject to an “audit by the state board of accounts.”<sup>44</sup> The court ruled that the foundation was not subject to the board’s audit authority and therefore did not fall under this definition of “state agency.”<sup>45</sup> But the court did not rule on whether the foundation was a state agency under other definitions in the Act. Among those is a provision that more broadly defines a “state agency” as any “board, commission, department, division, bureau, committee, agency, office, instrumentality, or authority” that exercises state administrative powers.<sup>46</sup>

**Louisiana:** Louisiana courts have created their own legal jambalaya in trying to sort out whether university foundations are subject to the state’s open-records law. In *State ex rel. Guste v. Nicholls College Foundation*, the Supreme Court of Louisiana said it needed more information before it could determine whether the Nicholls College Foundation was a public body, but it did rule that the foundation possessed at least some public records that could be examined under the Public Records Act.<sup>47</sup> The court held that records pertaining to the expenditure of funds contributed to the foundation through the Nicholls State University Alumni Federation were public, since they were distributed under authority of state law.<sup>48</sup> However, funds that the foundation received from other sources — such as private donations, which constituted the bulk of its assets — were not deemed to be public.<sup>49</sup>

While the state Supreme Court declined to answer whether the foundation was a public body, a year later a state court of appeals determined that the foundation was a “private corporation not subject to the Public Records Act.”<sup>50</sup> Most of the evidence presented in the case focused on the foundation’s receipt of unsolicited state funds. Unfortunately, that was not enough, as the court eventually ruled that there were not sufficient connections between the foundation and the university to establish the foundation as an “instrumentality of state...government.”<sup>51</sup> As commentators have noted, the decision “underscores the need for requesters to make clear the nexus between university foundations and the universities they serve in more than purely financial terms.”<sup>52</sup>

**West Virginia:** In *4-H Road Community Association v. West Virginia University Foundation*, the Supreme Court of West Virginia held that the foundation’s financial activity was not subject to the state’s Freedom of Information Act (FOIA).<sup>53</sup> The Act covers any “body which is created by state or local authority or which is primarily funded by the state or local authority.”<sup>54</sup> The court found that, for a variety of reasons, the foundation did not fit this definition and thus was not subject to the Act. First, the court noted that the foundation was not funded with public money. It did not hold any university funds, only donations made directly to the foundation. It was not located on state property. Nor did it utilize state employees. Second, the court found that the foundation was not created by state or local authority but rather chartered as a non-profit corporation by private citizens.

**Attorneys General Opinions**

While attorney general opinions are not binding on state courts and do not have the force of law, they can prove influential to judges and foundation officials.

**Arkansas:** In 1988, the state attorney general ruled that the Razorback Scholarship Fund was no longer subject to the state freedom of information law, following operational changes that resulted in the foundation no longer relying on public facilities, personnel or equipment to accomplish its goals.<sup>55</sup>

**Georgia:** In February 2004, the Georgia attorney general sent a letter to the University of Georgia Foundation warning that its board of trustees violated the state’s open meetings law when it entered into private sessions to discuss issues related to the compensation of the University of Georgia’s president. The foundation subsequently agreed to conduct its meetings in accordance with the Open Meetings Act.<sup>56</sup>

**Iowa:** In 1978, the state attorney general ruled that a university foundation was covered under the state’s freedom of information laws because it was “designated by the Board of Regents to act in the place of the Board in the acceptance or administration of trusts.” The attorney general noted: “In such situation, the foundation takes on the character of governmental entity and accordingly, it is subject to the open meetings law.”<sup>57</sup>

**Oklahoma:** The Oklahoma attorney general issued an opinion stating that the “identity of donors who make donations to the public body through a foundation” could be kept confidential.<sup>58</sup>

**Texas:** The Texas attorney general ruled that a *university* could not keep donor names secret. However, the opinion did not address the issue of whether a foundation was subject to the state’s open-records law.<sup>59</sup>

**Conclusion**

University foundations have become an integral part of nearly every public college or university’s fundraising campaign. Millions of dollars have been contributed (sometimes secretly) and spent (also sometimes secretly) purportedly to benefit the schools to which they are tied. Not surprisingly, as their assets have grown, so has their influence over university policies and practices. And so, too, the likelihood that the foundation may seek to do in private what the university itself could not do — or would not dare do — in public. In recent years, the positive contributions made by some foundations have been overshadowed by charges of scandal and abuse.

Courts and others have often — but not always — seen public university foundations for what they are: public bodies cloaked in a thin private veneer. And they have ruled that foundations, no matter how they describe themselves, must comply with a state’s public disclosure laws. Yet, in an attempt to maintain their veil of secrecy, foundations have become increasingly adept at devising organizational structures more likely to avoid public scrutiny.

As with all open-records battles, journalists should remember that their state’s disclosure laws almost always operate as a floor rather than a ceiling. Except in very limited situations, entities are always free to disclose more than the bare minimum required by law, and sometimes can be persuaded to do so. Even if your state has neither a statute nor a court ruling declaring foundation records to be open to public scrutiny, it is important to continue seeking access, because change comes only with pressure.



## Endnotes

- 1) Donald L. Lemish, *Establishing a University Foundation* (American Assoc. of State Colleges and Universities)(1989).
- 2) "Accusers named in sex abuse suit against former ESU administrator," Dan Berrett, *The Pocono Record*, July 15, 2009.
- 3) "SSU Foundation hit by Carinalli loans," Nathan Halvorsen, *Santa Rosa Press Democrat*, July 1, 2009.
- 4) "Multiple civil suits end with \$8.3 million settlement," Bill Roberts, *Idaho Statesman*, Oct. 13, 2006; "Former Official at U. of Idaho Pleads Guilty Over Failed Development Project," *The Chronicle of Higher Education*, Nov. 22, 2006.
- 5) "It's higher learning, not learning for hire; Corporate cash compromises the public purpose of the University System of Georgia Foundation," *The Atlanta Journal-Constitution*, Jan. 2, 2005, at 14D.
- 6) See Liz Allen, "ISU Foundation audit includes Walden's pay," *Ames Tribune*, March 6, 2001, A1.
- 7) Fred Grimm, "Catanese affair suggests a new FAU nickname," *The Miami Herald*, Sept. 30, 2003.
- 8) Amy Argetsinger, "Audit at Bowie State finds extravagances," *The Washington Post*, August 29, 1998, 1D. See also Charles Davis and Scott Reinardy, University of Missouri, *A Real Home Field Advantage: Access to Public University Foundation Records*, JOURNAL OF LAW & EDUCATION (July 2005), which provides more information on all of the controversies mentioned here — and several others — involving university foundations, as well as an excellent analysis of current law and a look at arguments for and against more public disclosure.
- 9) Ind. Code Ann. Sec. 5-14-3-4 (b)(15); S.C. Code Ann. Sec. 30-4-40 (a)(11); Wash. Rev. Code Ann. Sec. 42.17.315.
- 10) In fact, Davis and Reinardy point out that the available evidence actually contradicts such a "chilling effect," with donations to foundations actually increasing following court rulings in Ohio and Michigan that required foundations in those states to provide greater public access. *Id.* at 38-39.
- 11) See 26 U.S.C. Sec. 6104.
- 12) In addition to these state statutes, California Sen. Leland Yee — an advocate for open government at schools and colleges — has twice secured enactment of a bill to clarify that public university foundations are subject to that state's Public Records Act, only to see it vetoed in 2009 and 2010 by Gov. Arnold Schwarzenegger. Yee clashed with California State University-Stanislaus over its initial refusal to disclose how much its foundation paid former Alaska Gov. Sarah Palin to headline a university fundraiser. Under pressure — and after student Dumpster-divers discovered some financial records in the trash — the foundation admitted it was \$75,000.
- 13) Colo. Rev. Stat. Secs. 24-72-202(a)(IV) and (6)(b).
- 14) O.C.G.A. Sec. 50-18-72(a)(19).
- 15) Minn. Rev. Stat. Sec. 13.792.
- 16) Nevada Rev. Statute Sec. 239.010.
- 17) *California State University, Fresno Association v. Superior Court, McClatchy Co.*, 108 Cal. Rptr. 2d 870 (Cal. 2001).
- 18) *Id.* at 879-80.
- 19) See *McClatchy Co.*, 108 Cal. Rptr. 2d 870 at 886.
- 20) See *Palm Beach Community College Foundation, Inc. v. WFTV, Inc.* 611 So.2d 588, \*589 (Fla.App. 1993).
- 21) Fla. Stat. Ann. Sec. 119.011.
- 22) See *WFTV, Inc.*, 611 So.2d at 589-90 (claiming exemption under law that made foundation information not necessary to public audits confidential).
- 23) See *Gannon v. Bd. of Regents of the State of Iowa*, 692 N.W.2d 31 (Iowa 2005).
- 24) *Gannon*, 692 N.W.2d 31 at 39.
- 25) *Id.* at 41.
- 26) See *Univ. of Louisville Foundation v. Cape Publications*, 2003 WL 22748265 (Ky. Ct. App. Nov. 21, 2003) (unpublished decision), *review denied* (Ky. Supreme Court May 12, 2004).
- 27) Ky. Rev. Stat. Ann. Sec. 61.870(j).
- 28) *Cape Publications*, 2003 WL 22748265, at \*5.
- 29) *Id.* at \*7.
- 30) *Frankfort Publishing v. Kentucky State University*, 834 S.W.2d 891 (Ohio 1992).
- 31) See 1992 Kentucky Laws Ch. 163 (H.B. 106).
- 32) *Jackson v. Eastern Michigan University Foundation*, 544 N.W.2d 737 (Mich. Ct. App. 1996).
- 33) Mich. Comp. Laws Sec. 15.232.
- 34) *Jackson*, 544 N.W.2d at 738-39.
- 35) See *State ex. rel. Toledo Blade Co. v. University of Toledo Foundation*, 602 N.E. 2d 1159 (Ohio 1992).
- 36) Ohio Rev. Code Ann Sec. 149.43(B).
- 37) *University of Toledo Foundation*, 602 N.E. 2d at 1163.
- 38) *Id.*
- 39) 995 A.2d 496 (Pa. Cmwlth. 2010).
- 40) See *Weston v. Carolina Research and Development Foundation*, 401 S.E. 161 (S.C. 1991).
- 41) See S.C. Code Ann. Sec. 30-4-20(a).
- 42) *State Bd. of Accounts v. Indiana Univ. Foundation*, 647 N.E.2d 342 (Ind. Ct. App. 1995).
- 43) See *id.* at 355 n.6 (holding that the IU Foundation may be a state agency under a definition of the term not litigated).
- 44) Ind. Code Sec. 5-14-3-2.
- 45) See *Indiana Univ. Foundation*, 647 N.E.2d at 354.
- 46) See Ind. Code Sec. 5-14-3-2
- 47) *State ex rel. Guste v. Nicholls College Foundation*, 564 So.2d 682 (La. 1990).
- 48) *Id.* at 689,
- 49) *Id.*
- 50) *State ex rel. Guste v. Nicholls College Foundation*, 592 So.2d 419 (La. App. 1 Cir. Nov. 22, 1991), *writ denied*, 593 So.2d 651 (La. Feb. 7, 1992).
- 51) *Id.* at 421.
- 52) See Davis and Reinardy, *supra* note 7, at 27.
- 53) See *4-H Road Community Assoc. v. West Virginia Univ. Foundation*, 388 S.E.2d 308 (W. Va.1989)
- 54) W. Va Code Sec. 29B-1-2(3).
- 55) Op. Ark. Att'y Gen. No. 88-004 (January 13, 1988).
- 56) *University foundation agrees to operate in the sunshine*, SPLC Report (Spring 2004), p. 23.
- 57) 978 Iowa Op. Atty. Gen 369.
- 58) Okla. Att'y Gen. Op. No. 02-027 (2002).
- 59) Tex. Att'y Gen. Op. No. 590 (1991).