

May 24, 2007

*Sent Via Facsimile*

Ms. Krystle M. Wuerth  
1002 North First Street, SHC D212  
Vincennes, IN 47591

*Re: Formal Complaint 07-FC-110; Alleged Violation of the Open Door Law by the  
Vincennes University Board of Trustees*

Dear Ms. Wuerth:

This is in response to your formal complaint alleging that the Vincennes University Board of Trustees (“University”) violated the Open Door Law by failing to post notice of meetings, and holding closed working sessions. I find that the University has not violated the Open Door Law because the University posts timely adequate notice and does not close its working sessions to the public.

#### BACKGROUND

You are a reporter for the *Trailblazer* newspaper, the newspaper of the Vincennes University journalism department. On March 28, 2007, you arrived at 10:00 a.m. at a Board of Trustees meeting. You allege that when you arrived at the “10:00 a.m. announced meeting time” you were informed that the meeting time had been changed to 10:45 a.m., apparently without notice. There was a working session in progress. You were not allowed to attend the working session.

At the April 25 meeting, Board Chair Ron Morgan mentioned that morning’s working session. When you asked Mr. Morgan after the meeting about working sessions, he told you that working sessions were open to the public. However, you state you have never seen an official or unofficial announcement of a working session. The dates of board meetings are posted at the beginning of each calendar year, but do not include a place and time. You have been unable to locate official postings for these meetings, and the only meeting announcements you have been

able to locate are via e-mail. These e-mail announcements arrive with only 24 hours notice rather than the required 48 hours notice.

I sent a copy of your complaint to the University. Mr. Brent Stuckey, attorney for the University, sent a response. I enclose the response for your reference. Mr. Stuckey enclosed the notice of the March 28 meeting. It recites that there will be a meeting of the University Board of Trustees at Beckes Student Union on March 28, 2007. The working session would start at 9 a.m., an executive session would begin at 10:15 a.m., and the regular session at 10:45 a.m. The University does not understand what you refer to when you state that the meeting was “announced” for 10:00 a.m.

The notice was sent to the media, and Mr. Stuckey provided a copy of the e-mail notice that shows it was sent to [trailblazer@vinu.edu](mailto:trailblazer@vinu.edu). The notice was posted on Monday morning, March 26, on the bulletin board just inside the front door of the administration building. The notice, with agenda, is also posted at the door of the meeting room on the day of the meeting. The same procedures are used for all meetings of the University Board of Trustees.

In addition to these notices, the administrative assistant to the president also provides notice of the regular session agenda items to the campus via campus-wide e-mail on the day of the meeting. Perhaps this is the 24 hour notice you were referring to. With respect to your allegations that you were not allowed to attend the work sessions, no one in the administration would have told you that. You acknowledge that Mr. Morgan told you that the working sessions were open to the public. The University has complied with the Open Door Law.

## ANALYSIS

Except as provided in section 6.1 of the Open Door Law, all meetings of the governing bodies of public agencies must be open at all times for the purpose of permitting members of the public to observe and record them. IC 5-14-1.5-3(a). Public notice of the date, time, and place of any meetings, executive sessions, or of any rescheduled or reconvened meeting, shall be given at least forty-eight hours (excluding Saturdays, Sundays, and legal holidays) before the meeting. Ind. Code 5-14-1.5-5(a).

Public notice shall be given by the governing body of a public agency by posting a copy of the notice at the principal office of the public agency holding the meeting or, if no such office exists, at the building where the meeting is to be held. In addition, the governing body shall deliver notice to all news media which deliver by January 1 an annual written request for such notices for the next succeeding calendar year to the governing body of the public agency. IC 5-14-1.5-5(b). Notice of regular meetings need be given only once each year, except that an additional notice shall be given where the date, time, or place of a regular meeting or meetings is changed. This subsection does not apply to executive sessions. IC 5-14-1.5-5(c).

From the documentation provided by the University, the University complied with the Open Door Law with respect to its March 28 meeting. Notice was posted at the University administration building 48 hours in advance of the meeting. The notice contained the date, time and place of the meeting. An e-mail was sent to a string of recipients including what appears to

be an e-mail address of the *Trailblazer* on March 23, 2007, well in advance of the meeting. Mr. Stuckey has averred that the working sessions are open to the public, and this is consistent with what Mr. Morgan told you.

While the University may post a notice of regular meetings at the beginning of each calendar year, Mr. Stuckey does not address your contention that the annual notice does not contain a time or place. Annual notice should state the date, time and place of the meeting, but no violation would occur unless the University failed to remedy any omission in the annual meeting notice with a complete 48-hour notice. It is clear that the March 28 meeting did proceed under a complete and timely notice. I note that annual notice of executive sessions is not permitted.

I also find that there is no evidence that the public was excluded from working sessions of the University.

### CONCLUSION

For the foregoing reasons, I find that the Vincennes University Board of Trustees did not violate the Open Door Law.

Sincerely,

Karen Davis  
Public Access Counselor

cc: Brent Stuckey