

November 30, 2007

Russ Leonard-Whitman
Assistant Professor of Journalism
Vincennes University

Re: Your informal inquiry

Dear Mr. Leonard-Whitman:

This is in response to your informal inquiry dated October 12, 2007. You asked whether the Vincennes University Student Government Association (“VUSGA”) is subject to the Open Door Law (“ODL”)(Ind. Code 5-14-1.5) and Access to Public Records Act (“APRA”)(Ind. Code 5-14-3).

ANALYSIS

Whether VUSGA is subject to the ODL

Indiana Code §5-14-1.5-3(a) provides that all meetings of the governing bodies of public agencies, except for executive sessions defined by I.C. §5-14-1.5-6.1, must be open at all times for the purpose of permitting members of the public to observe and record them.

“Governing body” means two or more individuals who are:

- (1) a public agency that
 - (A) is a board, a commission, an authority, a council, a committee, a body, or other entity; and
 - (B) takes official action on public business;
- (2) the board, commission, council, or other body of a public agency which takes official action upon public business; or
- (3) any committee appointed directly by the governing body or its presiding officer to which authority to take official action upon public business has been delegated. An agent or agents appointed by the governing body to conduct collective bargaining on behalf of the governing body does not constitute a governing body for purposes of this act. I.C. § 5-14-1.5-2(b).

Vincennes University (“University”) is a public agency for the purpose of ODL I.C. §5-14-1.5-2 because it is a state educational institution established under I.C. 21-25-2, and the accounts and financial affairs of Vincennes University are subject to inspection and examination by the state examiner. I.C. §21-25-4-3. VUSGA is not, however, a governing body of University because, as is my understanding, it does not take official action on public business. Therefore, VUSGA would not be subject to ODL.

Whether VUSGA is subject to APRA

Indiana Code §5-14-3-3(a) provides that any person may inspect and copy the public records of any public agency during the regular business hours of the agency, except as provided in section 4 of APRA. A “public record” means any writing, paper, report, study, map, photograph, book, card, tape recording or other material that is created, received, retained, maintained or filed by or with a public agency. I.C. §5-14-3-2.

The University is a public agency for the purpose of APRA. I.C. §5-14-3-2. Accordingly, any person has the right to inspect and copy the public records of University during the regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. I.C. §5-14-3-3(a).

However, student organizations which operate autonomously and subject to University regulations and Indiana Law are not themselves public agencies subject to the APRA. *Opinion of the Public Access Counselor 04-FC-74*. It is my understanding that VUSGA is one such student organization. Therefore VUSGA would not be subject to APRA, though those records regarding VUSGA in the possession of University could be accessible.

CONCLUSION

It is my opinion that Vincennes University Student Government Association is subject to neither the Open Door Law nor the Access to Public Records Act.

Best regards,



Heather Willis Neal
Public Access Counselor