

MAINE STATE LEGISLATURE

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Inter-Departmental Memorandum Date February 17, 1976

To Representative Laurence E. Connolly, Jr. Dept. House of Representatives

From W. G. Buschmann, Assistant

Dept. Attorney General

Subject University of Maine - Freedom of Access Law

QUESTION:

Does the "Freedom of Access Law" (1 M.R.S.A. § 401, et seq) apply to the budgets of the various campuses of the University of Maine.

ANSWER:

Yes.

REASONS:

The Legislature declared in Section 401 of Title 1 M.R.S.A. that the records of "public proceedings" are "open to public inspection." In Section 402 (P.L. 1975, c. 243) the term "public proceedings" was defined to mean:

"... the transactions of any functions affecting any or all citizens of the State by any administrative or legislative body of the State, or of any of its counties or municipalities, or of any other political subdivision of the State or of the Board of Trustees of the University of Maine . . . , with which function it is charged under any statute or under any rule or regulation of such administrative or legislative body or agency." (Emphasis supplied) *

One of the functions of the Board of Trustees of the University of Maine is to authenticate and approve all expense vouchers for the University (20 M.R.S.A. § 2255) and a second function is to receive a copy of the University's treasurer's annual report (20 M.R.S.A. § 2256). Such conduct on the part of the Trustees constitutes a public proceeding.

The Legislature defined in Section 402-A, of Title 1, M.R.S.A., the term "public records" to mean:

"... any written, printed or graphic matter, or any mechanical or electronic data compilation from which information can be obtained, directly or after translation into a form susceptible of visual or aural comprehension, that is in the possession or custody of an agency or public official of this State or any of its political

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subdivisions and has been received or prepared for use in connection with the transaction of public or governmental business, or contains information relating to the transaction of public or governmental business, except:

"1. Records that have been designated confidential by statute."

Since the Legislature declared the University to be a State Agency (20 M.R.S.A. § 2252), the University should be considered to be transacting public business and, therefore, records of the University which are not "designated confidential by statute" are open for public inspection. Although student records, pursuant to Section 805 of Title 20 M.R.S.A., are designated as being confidential, there is no statute granting a privileged status to records related to the University's budget.

Thus, the Freedom of Access Law does apply to the University of Maine. The public does have the right to inspect the budgets of each campus either by examining the records of the University or the records maintained by the University's Board of Trustees.

W. G. BUSCHMANN

Assistant Attorney General

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* Section 402 was also amended by P.L. 1975, c. 483, § 2. This version of Section 402, although similar to the first version, does not refer to the Board of Trustees of the University of Maine. Despite this discrepancy, the answer remains that the "Freedom of Access Law" does apply to the budgets of the various campuses of the University. After all, these are budgets prepared by a State Agency and they affect citizens of this State. Both versions of Section 402 include the budgets of each campus of the University as a public proceeding and, thereby, make them subject to the "Freedom of Access Law."