

Resolution title: University at Buffalo Foundation, INC's (UBF) transparency should be maximized, and the UB Faculty Senate supports New York State Assembly Bill A07789E (Glick) and New York State Senate Bill S5797A (LaValle) making university foundations subject to FOIL (Freedom of information Law)

To: The Faculty Senate Executive Committee

From: Professor Kenneth M Dauber

Date Proposed: November 2, 2016

First Reading to the Faculty Senate: November 15, 2016

Second Reading to the Faculty Senate: November 15, 2016

Approved by the Faculty Senate: November 15, 2016

University at Buffalo Foundation, INC's (UBF) transparency should be maximized, and the UB Faculty Senate supports New York State Assembly Bill A07789E (Glick) and New York State Senate Bill S5797A (LaValle) making university foundations subject to FOIL (Freedom of information Law)

Whereas the University at Buffalo Foundation, Inc. (UBF) was formed in 1962 pursuant to a law passed in Albany allowing the creation of university foundations as independent non-profit corporations (501(c)(3)) to manage the endowments of the various campuses, the purpose being to streamline financial management and to protect campus monies from clawbacks by Albany by making those monies the property of the corporations;

But whereas, under the laws of New York State, non-profit corporations are subject to less stringent reporting rules than the colleges and universities they serve and whose monies they manage, such that incomes and expenditures need not, in most cases, be itemized, as they must be by their associated institutions, but can be aggregated in broad categories;

And whereas, in particular, non-profits are not subject to the Freedom of Information Law (FOIL) of the State of New York, which governs the colleges and universities;

Whereas, moreover, UBF currently manages over \$1 billion dollars of University at Buffalo money, money derived from service fees from the use of UB facilities, tuition payments for continuing education courses provided by UB faculty and staff, rent from UB students living in housing on UB property, donations to UB, and others;

Whereas, for the year ending in June 2015, according to the audited document posted on its website, UBF had revenues of \$106 million and expenses of \$104 million;

Whereas, despite candid presentations in the academic year 2015-2016 by the UB Vice President for Finance and Administration about the university's finances, nevertheless how UBF's money is spent, unlike the money that comes directly from New York State, remains opaque;

Whereas, on December 4, 2013, the Faculty Senate, “in a spirit of collegiality, to promote the transparency the citizens of New York expect of its public universities, and in order to fulfill the Senate’s mandated budget oversight responsibility,” passed a resolution by a vote of 38-17 calling on the UB President to ask the UBF, of which the UB President is a trustee, to open its books to FOIL requests;

Whereas, in the spring of 2014, the President replied that he did not have the authority to release those records and would not promulgate the Senate’s request;

Whereas, during the fall 2016 semester, in the spirit of shared governance, the chair of the Faculty Senate asked the chair of the UBF Board of Trustees for ex-officio members of the UB Faculty Senate, the UB Professional Staff Senate, and the UB Student Assembly (COAL) for representation on the UBF Board of Trustees, and the chair of the UBF Board said no on the grounds that UBF has “sufficient transparency” as is;

And whereas, in the wake of several scandals at other campuses, two identical bills were introduced by the chairs of the education committees of the New York State Senate and Assembly, S.5797-A LaValle, et al. (<https://www.nysenate.gov/legislation/bills/2011/S5797/amendment/A>) and A.7789-E Glick, et al. (http://assembly.state.ny.us/leg/?default_fld=&bn=A07789&term=2011&Summary=Y&Actions=Y&Text=Y&Votes=Y), co-sponsored by a bi-partisan group of senators and assembly members, making university foundations subject to FOIL, and that the bills have been languishing:

Be it therefore resolved that we hold transparency to be a core value of the academic enterprise; that as UB faculty members and citizens of the State of New York we are concerned about the opaque reporting practices of the University at Buffalo Foundation and its associated entities in relation to their finances and operations; that we find them inconsistent with the values of a university and with the democratic right of taxpayers to know how institutes created to serve them are functioning. And accordingly, we, the Faculty Senate of the State University of New York at Buffalo, ask that the New York State legislature pass, with dispatch, Bills S.5797-A LaValle, et al. and A. 7789-E Glick, et al.