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Connecticut Council on Freedom of Information

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Government Administration and Elections Committee

Monday, March 16, 2015

Raised Bill 6903 ***AN ACT SUBJECTING FOUNDATIONS OF PUBLIC INSTITUTIONS OF HIGHER EDUCATION TO THE FREEDOM OF INFORMATION ACT.***

Sen. Cassano, Rep. Jutila, Sen McLachlan, Rep. Smith, committee members:

We support this bill, but want to make sure that it allows people to publicly donate to the Foundation if they so choose.

We believe the University of Connecticut Foundation is subject to the 1980 State Supreme Court ruling in Board of Trustees of Woodstock Academy v. Freedom of Information Commission. "The precise question posed by this case," said the court, is "whether a nominally private corporation which serves a public function may be considered a public agency for purposes of the FOIA."

The court, in saying yes, used a "functional equivalent test": 1) whether the entity performs a governmental function; 2) the level of government funding; 3) the extent of government involvement or regulation; and 4) whether the entity was created by the government.

The court also has ruled that all four criteria are not necessary for a finding of "functional equivalence."

Former UConn President Homer Babbidge, in a letter to Alumni President Carl Nielsen in 1964, proposed the creation of the University of Connecticut Foundation and suggested that the Alumni Association earmark $5,000 toward the establishment of a foundation. Babbidge joined the foundation board, as did L. Richard Belden, a member of the General Assembly.

The Master Agreement of 1994 between the university and the foundation states: "The university designated the foundation to assume primary responsibility for the university's development efforts."

You can read on the foundation's website today that it "operates exclusively to promote the educational, scientific, cultural, and recreational objectives of the University of Connecticut."

The university provides about $8 million a year to the foundation. The foundation sends its audits every year to the state's Office of the Auditors of Public Accounts for review.

It seems to me that if it quacks like a duck it is a duck; that the foundation meets enough of the Woodstock criteria to be subject to the FOI laws.

On donors, you can read this on the Foundation web site: "Public Recognition — Founders Society — The Founders Society honors UConn's most generous benefactors: individuals and couples who have made significant contributions for the advancement of UConn's educational and research programs. Donors become Founders Society members when they reach a level of $100,000 cumulative lifetime commitment to UConn. Members are publicly recognized as top donors to UConn, listed in an annual printed list distributed to all members, and included as special guests at events during the year."

Thank you.