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LSU President and Chancellor F. King Alexander
3810 West Lakeshore Drive
Baton Rouge, Louisiana 70810

Re: Public Records Request

Dear President Alexander:

This is a request under the Louisiana Public Records Act, La. Rev. Stat. Ann. §§ 44:1, *et seq.*, for a writing made and/or signed by members of the Louisiana State University Law Center faculty between April and June 2015, expressing faculty dissatisfaction with Dean and Chancellor Jack M. Weiss or LSU Law Center administration, or both.

Background

According to members of the LSU Law Center faculty, there exists a record in the form of a short letter or other such writing. The writing expresses disapproval of and/or dissatisfaction with the LSU Law Center administration generally or LSU Law Center Dean and Chancellor Jack M. Weiss, or both. Upon information and belief, a majority of LSU Law Center faculty signed onto the writing. Upon information and belief, a faculty member drafted the writing, which was then circulated by hand to other voting members of the faculty. A majority of voting members signed the writing, which was then hand delivered to you, a main campus official, or an LSU System official, or all. Upon information and belief, the writing was not deposited and remains in possession of and/or maintained by one or more of the faculty members who signed the letter. Confirming the writing's existence, one member of the LSU Law Center faculty wrote to me, "I wish I had a copy. I do not."

Request

I hereby request the record circulated among faculty and shown to LSU administration between April and June 2015, expressing LSU Law Center faculty's dissatisfaction with Dean and Chancellor Jack M. Weiss and/or LSU Law Center administration.

Legal and Factual Analysis

Summary: The writing circulated among faculty at some point between April and June 2015 expressing dissatisfaction with Dean and Chancellor Jack M. Weiss and/or LSU Law Center administration is a public record under Louisiana law. It is subject to no constitutional or statutory exemptions, exemptions, or limitations. Furthermore, the record is not in active use and must therefore be provided immediately for inspection.

The Constitution of Louisiana at Article 12, section 3 provides, “No person shall be denied the right to observe the deliberations of public bodies and examine public documents, except in cases established by law.” The Louisiana Public Records Act effectuates the public’s constitutional right by making all “public records” presumptively available to public inspection unless specifically excepted, exempted, or limited by law.

Louisiana’s public records law is broad and favors disclosure. According to § 44:1(A)(2)(a), “public records” subject to disclosure include virtually any materials, whether physical or digital, “having been used, being in use, or prepared, possessed, or retained for use in the conduct, transaction, or performance of any business, transaction, work, duty, or function which was conducted, transacted, or performed by or under the authority of the constitution or laws of this state, or by or under the authority of any ordinance, regulation, mandate” There is no discretion provided for the custodian of records to withhold a public record from inspection. *See* La. Rev. Stat. § 44:32(A) (“The custodian shall present any public record to any person of the age of majority who so requests.”). Louisiana law goes so far in protecting the right of inspection as to require immediate access to public records not in active use, La. Rev. Stat. § 44:33(B)(1), and requires doubt be resolved in favor of public access, *Title Research Corp. v. Rausch*, 450 So. 2d 933, 936 (La. 1984).

Exceptions to the Louisiana Public Records Act must be pursuant to the Act itself or the Constitution of Louisiana. *See* La. Rev. Stat. §§ 44:1(A)(2)(a), 44:4.1. Indeed, under Section 44:4.1, the Louisiana Legislature “declares that all exceptions, exemptions, and limitations to the laws pertaining to public records shall be provided for in this Chapter or the Constitution of Louisiana. Any exception, exemption, and limitation . . . not provided for in this Chapter of the Constitution of Louisiana shall have no effect.” The only conceivable exemption related to the writing I request is La. Rev. Stat. § 44:11, which pertains to the confidential nature of certain personnel records. That section, however, protects only certain information contained “in personnel records” such as phone numbers and addresses of employees. It does not extend to public records that merely mention performance of an administrator, administration, or institution.

The Louisiana State University Law Center is a “public body” as that term is defined by the Louisiana Public Records Act, La. Rev. Stat. § 44:1. A “vote of no confidence” is plainly within the public function of a state-employee professor and/or faculty committee, whatever form the vote takes. Even if the writing I seek is not a formal vote of no confidence, it expresses opinions of public university professors as to the administration of a public institution of higher education. The writing is plainly and directly “for use in the conduct, transaction, or performance of any business, transaction, work, duty, or function,” which makes it a public record under Louisiana law. Indeed, the right to public inspection under the Louisiana Constitution and the broad scope of the Louisiana Public Records Act, with its presumption of access and immediate production, strongly suggest all public records are born public. They do not gain their public character by some overt act of deposit or maintenance; rather, they are public from their creation. Hence, Louisiana law makes public any information that has ever been “used” or “retained” or merely “possessed” for use in a public function. A writing drafted and signed by LSU Law Center faculty regarding the administration of the LSU Law Center is, therefore, subject to the public records law and presumed accessible. Although it was public from the moment of its creation, the writing became undeniably public the moment it was shown to one of more LSU administrators for the purpose of expressing the public-employee professors’ opinions on administration of the Law Center and implicitly requesting the LSU administrator/s carry out their legally prescribed functions and/or duties to manage the LSU Law Center.

Costs and/or Fees

If there are any fees for searching or copying this record, please inform me if the cost will exceed \$20.00. However, I hereby request a waiver of all fees because the disclosure of the requested information is in the public interest and will contribute significantly to the public's understanding of the administration of the Louisiana State University Law Center. My request is for news gathering purposes, as I am a regularly published current-events and academic writer. My research and writing has appeared in newspapers across the country, including the *National Law Journal*, *Huffington Post*, *Louisville Courier-Journal*, *The Advertiser* (Lafayette, La.), *The Times* (Shreveport, La.), *The Daily News-Star* (Monroe, La.), *The Town Talk* (Alexandria, La.), on a general interest website, <http://www.rkylealagood.com>, and in numerous legal academic publications. I seek the requested records for public information, not for commercial purposes. Furthermore, as a graduate of the LSU Law Center, I have a particular interest in LSU's administration.

Immediate Inspection Requested

Given the timely nature of an expression of no confidence, whatever form it takes, I request immediate inspection under La. Rev. Stat. § 44:33 ("If the public record applied for is immediately available, because of its not being in active use at the time of the application, the public record shall be immediately presented to the authorized person applying for it.").

Neither Louisiana laws establishing and governing Louisiana State University nor the Constitution of Louisiana provides applicable exceptions, exemptions, or limitations to the public records law for the requested writing.

Had faculty expressed no confidence and/or dissatisfaction with administration through the usual method of a formal vote in a faculty meeting, the vote/expression would have been public under the Louisiana Open Meetings Law. Under the Open Meetings Law, the vote would have been available immediately. It would frustrate Article 12, section 3 of the Constitution of Louisiana and the spirit of Louisiana's Open Meetings Law and Public Records Act to allow members of the faculty committee to opt to vote on important matters of public university administration by informal or formal writing in order to avoid immediate public access to such information as would be available through an open meeting.

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If you deny any or all of my request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law.

Thank you for your time and consideration.

Respectfully,



R. Kyle Alagood