



STATE OF NEW YORK
SUPREME COURT CHAMBERS
ULSTER COUNTY COURT HOUSE
KINGSTON, N.Y.
12401

VINCENT G. BRADLEY
JUSTICE

January 22, 1996

Miller and Korzenik, Esqs.
477 Madison Avenue
New York, New York 10022

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Albany, New York 12224

Re: The Stony Brook Statesman v.
Associate Vice Chancellor for
University Relations et al.
Albany County Special Term
RJI# 01-95-ST5981
Cal. 7
September 22, 1995

Dear Counselors:

This letter represents the decision and order of the Court in the above matter. In this Article 78 proceeding, the petitioner challenges the failure of respondent Student Polity Association (hereinafter referred to as "Polity"), to comply with its "FOIL" (Public Officer's Law Sec 84 et seq.) requests regarding contracts entered into by Polity with NIA Entertainment. The petitioner is a student or campus newspaper at SUNY-Stony Brook. Polity is a not-for-profit New York corporation which acts as the SUNY-Stony Brook student government and which provides student services pursuant to Education Law Section 355 and 8 NYCRR 302.14. As part of its activities, Polity collects legally mandated student activity fees and controls the expenditures of these fees pursuant to Education Law Section 355 and 8 NYCRR 302.14.

After reviewing the parties' submissions, the Court finds that the petition must be granted. Polity has refused disclosure solely on the grounds that it is not subject to FOIL since it is not a state agency as that term is defined in

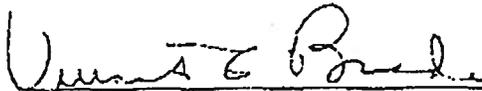
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Public Officers Law Section 36(3). Given the fact that Polity is responsible for spending mandatory student activity fees under supervision of SUNY-Stony Brook and pursuant to and in accordance with Education Law Section 355 and 8 NYCRR 302.14, respondents' position is simply not tenable. In reaching this conclusion, the Court adopts the reasoning set forth in the opinion letter from the Committee on Open Government to petitioner dated May 17, 1995 which is annexed to the petition as Exhibit E.

Respondent Polity, in form if not in substance, apparently has conceded that it is subject to FOIL since in its reply submissions, it states that it has already made all of its files available to petitioner. Petitioner disputes that this is true, however, arguing that it has not been provided with all relevant documents.

Accordingly, the Court hereby directs that within ten (10) days of the date of this decision/order, respondent Polity shall provide to petitioner any and all documents in its possession relating to NIA Entertainment. Also, the Court will take the issue of an award of attorney's fees pursuant to Public Officers Law Section 89(4)(c) under advisement, and will direct counsel to submit memorandums of law on this issue within 30 days of the date of this decision.

ENTER.



 VINCENT G. BRADLEY
 Justice of the Supreme Court

VGB/mnn

Papers considered: Petition; Polity answer and memo; SUNY-Vice Chancellor Answer and memo; petitioner's reply affidavit and reply memorandum of law.