

Dear Mr. Norman and Ms. Williams:

A significant error in Mr. Bercaw's report has a material effect on his conclusion regarding whether or not the budget document Denise Reynolds distributed on Jan. 14 was responsive to a pending FOIA request.

Mr. Bercaw erroneously stated that the budget document fell outside of the timeframe addressed in a Jan. 10 FOIA from the Arkansas Democrat Gazette. To support that conclusion he cited a paragraph in that FOIA pertaining to documents covering Jan. 1, 2012 to June 30, 2012. However, it was the preceding paragraph in the Jan. 10 FOIA to which I was referring, and which asks specifically for the following:

"We ask for detailed, complete, line-by-line budgets of Advancement and its units—that go beyond the framework of total salaries, total wages, total fringes, total M&O and grand totals—for Fiscal Years 2011, 2012, and 2013 (as the latter stands now). (e-mail from Dungan, Hammersly, and Cook, Jan. 10, 2013)"

As noted in Mr. Bercaw's report, the document discussed at the Jan. 14 meeting was the latest budget breakdown of Advancement's FY13 revenues and expenses—clearly a matter covered in the above-noted FOIA request.

I am hopeful that you will bring this to the attention of the committee chairs and the committee itself during today's hearing. Furthermore, it should keep open the question of whether or not the chancellor's directive to "get rid of" that document was a violation of Arkansas' FOIA law. The prosecutor's error in applying the wrong paragraph (cited in his report) when reaching his conclusion should result in the committee setting aside that particular finding until it can be revised.

Finally, I also respectfully request that you ask the Pulaski County prosecutor to investigate the conflicting statements made to the Legislative Audit Committee on September 13 regarding what Chancellor Gearhart said to the Advancement Division's leadership team on Jan. 14. This matter is important to the credibility of the investigation, the management and governance of the university, the taxpayers and tuition payers, and to the reputations of Chancellor Gearhart and me.

Sincerely,

John N. Diamond