2010-021

STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

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December 14, 2009

Honorable Laura V. Hall
Member, House of Representatives
Post Office Box 3367
Huntsville, Alabama 35910

Board of Trustees – Ex Officio – Meetings – Alabama A&M University – Executive Sessions

An ex officio nonvoting member of the Board of Trustees of Alabama A&M University ("Board") has the right to attend executive sessions of the Board.

Dear Representative Hall:

This opinion of the Attorney General is issued in response to your request.

QUESTION

Can an ex officio nonvoting member of the Board of Trustees of Alabama A&M University be excluded from an executive session of the Board by other members of the Board?

FACTS AND ANALYSIS

In your letter of request, you state that section 16-49-20 of the Code of Alabama provides, in pertinent part, that "[t]he president of the student government association and the president of the faculty senate shall be ex officio nonvoting members" of the Board of Trustees of Alabama A&M University. ALA. CODE § 16-49-20 (Supp. 2009). As you state in your request, the Alabama Open Meetings Act contains no restrictions on ex officio or nonvoting members of a body attending executive sessions convened pursuant to the act. ALA. CODE §§ 36-25A-1 to 36-25A-11 (Supp. 2009).

This Office considered an analogous issue in an opinion to Honorable Michael G. Trucks, Attorney, City of Fairfield, dated June 15, 2009, A.G. No. 2009-080. The *Trucks* opinion stated that an ex officio officer is a person who has power by virtue of the authority implied by an office. *Id.* at 2. In *Trucks*, this Office concluded that an ex officio member of a board possesses all of the rights and privileges of membership, including voting rights, unless those rights or privileges are expressly limited in the governing provisions of the body. *Id.* at 3.

The provision outlining membership for the Board limits only the voting powers given to the president of the student government association and the president of the faculty senate as ex officio members. The nonvoting status of the ex officio members does not work to exclude them from the remaining rights and privileges of membership. Absent further limitations, ex officio members have the same right as other members to attend executive sessions of the Board.

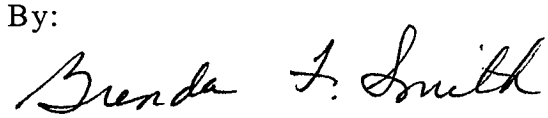
CONCLUSION

An ex officio nonvoting member of the Board of Trustees of Alabama A&M University ("Board") has the right to attend executive sessions of the Board.

I hope this opinion answers your question. If this Office can be of further assistance, please contact me.

Sincerely,

TROY KING
Attorney General
By:



BRENDA F. SMITH
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