

**IN THE CIRCUIT COURT OF DEKALB COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION**

LEON KINCAID,	)
	)
Plaintiff,	)
	)
v.	)
	)
NORTHERN ILLINOIS UNIVERSITY	)
STUDENT ASSOCIATION SENATE,	)
	)
Defendant.	)

**COMPLAINT**

NOW COMES Plaintiff, LEON KINCAID, by his undersigned attorneys, LOEVY & LOEVY, and brings this Open Meetings Act suit asking the Court to declare that Defendant NORTHERN ILLINOIS UNIVERSITY STUDENT ASSOCIATION SENATE is a public body under the Illinois OMA and to order Defendant to comply with requirements under OMA. In support of his Complaint, KINCAID alleges:

**INTRODUCTION**

1. Pursuant to the public policy of the State of Illinois, public bodies exist to aid in the conduct of the people’s business and the people have a right to be informed as to the conduct of their business. Access to public records promotes transparency and accountability at all levels of government and is crucial to democracy.

2. Under the Illinois Open Meetings Act, citizens shall be given advance notice of and the right to attend all meetings at which any business of a public body is discussed or acted upon in any way. Exceptions to the public’s right to attend exist only in those limited circumstances where the General Assembly has specifically determined that the public interest

would be clearly endangered or that the personal privacy or guaranteed rights of individuals would be clearly in danger of unwarranted invasion.

3. The General Assembly has declared that the provisions for exceptions of the open meeting requirements shall be strictly construed against closed meetings.

4. Defendant NIU SENATE has violated the OMA by purporting to be a private organization and wrongfully engaging in closed meetings that prevent transparency and limit the public's ability to assess Defendant NIU SENATE'S accountability.

### **PARTIES**

5. Plaintiff LEON KINCAID ("KINCAID") is an individual who resides in DeKalb County, Illinois.

6. Defendant NORTHERN ILLINOIS UNIVERSITY STUDENT ASSOCIATION SENATE ("NIU SENATE") is a public body located in DeKalb County, Illinois.

### **VIOLATION OF THE OMA**

7. On November 8, 2015, the NIU SENATE charged SA Vice-President Reggie Bates with neglect of duty based on eight specifications.

8. On November 22, 2015, the NIU SENATE wrongfully held a closed session for the duration of the nine-hour meeting which discussed the possibility of impeachment.

9. Upon information and belief, the NIU SENATE justified the closed session by alleging that the Open Meetings Act does not apply to it. In an article from the Northern Star from November 23, 2015, NIU SA Speaker Dillon Domke and SA Sergeant at Arms Timothy Brander informed newspaper staff that the NIU SA "is not a public body as defined by the act." A true and correct copy of the Northern Star article is attached as Exhibit A.

10. The NIU SENATE receives the majority of its funding from Northern Illinois University, which is a state institution.

11. Pursuant to the NIU SENATE's bylaws, one of the duties of the NIU SENATE is to "appropriate allotted monies and other benefits to SA-recognized student organizations." A true and correct copy of the NIU SENATE Bylaws is attached as Exhibit B.

12. According to the NIU SENATE's website, it is "ultimately responsible for the Student Association budget which is currently over \$6.5 million dollars." The funds are used to provide a variety of public services to the NIU student body, including the Huskie Bus System, recreation services, campus child care, a physical therapy clinic, and a student legal department.

13. Upon information and belief, the NIU SENATE acts as a legislative body in that it investigates and recommends policies on student government and university issues and may pass resolutions on behalf of the entire NIU student body.

14. NIU SENATE is a public body based both the public services it provides to the students of the university and the taxpayer money it controls.

15. As a public body, NIU SENATE must comply with the regulations of the OMA.

16. Upon information and belief, the NIU SENATE will continue to purport to be a private entity and thus justify its violations of the OMA.

#### **COUNT I – NIU SA'S OMA VIOLATIONS**

17. The above paragraphs are incorporated by reference.

18. NIU SENATE is a public body as those terms are defined in the OMA.

19. NIU SENATE has justified its violations of the OMA by alleging that it is not a public body.

20. These violations are likely to be ongoing unless the NIU SENATE is forced to comply with the OMA.

**WHEREFORE**, KINCAID asks that the Court:

- i. declare that NIU SENATE is a public body under OMA;
- ii. enjoin NIU SA from refusing to comply with the OMA;
- iii. award KINCAID reasonable attorneys' fees and costs;
- iv. order NIU SENATE to pay a civil penalty of between \$2500 and \$5000 for each willful and intentional violation of OMA or other act of bad faith;
- v. award such other relief the court considers appropriate.

ESPECTFULLY SUBMITTED,



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April 4, 2016