

Mr. Nate Carlisle
550 South 500 East
Apartment 15
Salt Lake City, Utah 84102

Dear Mr. Carlisle:

The University of Colorado at Boulder (CU) is in receipt of your request under the Colorado Open Records Act (CORA), 24-72-201 through 24-72-205, C.R.S., for documentation and/or information "related to the drug testing of University of Colorado athletes conducted since January 1, 2004."

Due to a Colorado Supreme Court decision, CU and all other public institutions of higher education in Colorado are prohibited from conducting random testing on student-athletes. *See University of Colorado v. Derdeyn*, 863 P.2d 929 (Colo. 1993). As a result of the *Derdeyn* decision, CU only conducts drug tests on athletes when it has information that satisfies the constitutional standard of *reasonable, individualized, suspicion* that banned or illegal substances are being abused by a student-athlete.

You have asked for documentation or an accounting of all positive drug tests related to student-athletes since January 1, 2004. Because of the restrictions placed on CU by the case law cited above, there have only been three instances in the relevant period, involving two student-athletes, where tests based on reasonable suspicion have resulted in positive findings of drug use. The documents relating to these instances are enclosed, with all personally identifiable information redacted.

You also asked for documentation "related to punishments levied for positive tests." Both student-athletes whose tests resulted in positive findings of drug use were required to undergo weekly testing, again based on "reasonable suspicion" due to the positive test results. One of these tests resulted in a second positive result in the case of one of these student-athletes, who was then barred from participating in intercollegiate athletics for one year pursuant to university policy. The student-athlete then elected to transfer to another institution rather than wait out a year.

In addition, both the NCAA and the Big 12 Conference administer random drug tests to CU athletes two to three times annually, and prior to championship events, with the cooperation and assistance of the CU Sports Medicine department. These organizations, as private entities, are not constrained by Colorado law. In addition, they pay for and administer their own testing programs, so CU has no billing records or contracts relating to these testing programs. Because of the infrequency of drug tests administered directly by CU, the University has no ongoing contract with the lab it uses for those tests.

I hope this sufficiently answers your request, and I thank you for your patience. Please feel free to contact me with any questions.

Sincerely,

Bronson Hilliard