



EASTERN MICHIGAN UNIVERSITY

August 6, 2007

Nate Carlisle
The Salt Lake Tribune
90 S. 400 West, Suite 700
Salt Lake City, UT 84101

RE: MICHIGAN FREEDOM OF INFORMATION ACT REQUEST

Dear Mr. Carlisle:

Your July 30, 2007 letter to Eastern Michigan University (EMU) Executive Vice President Donald Loppnow requesting information pursuant to the Michigan Freedom of Information Act (FOIA) has been referred to this office for response. Given the broad scope of your request that will require the search for, redaction and copying of Athletic Department and Purchasing Department records dating back several years, pursuant to Section 5 (2)(d) of the Michigan FOIA, EMU is extending the period for response by ten business days. Accordingly, EMU will respond to your request by Friday, August 24, 2007.

Sincerely,

A handwritten signature in black ink that reads "Ken C. Mike" with a long horizontal line extending to the right.

Kenneth A. McKanders
General Counsel

/kam



EASTERN MICHIGAN UNIVERSITY

August 22, 2007

Nate Carlisle
The Salt Lake Tribune
90 S. 400 West, Suite 700
Salt Lake City, UT 84101

RE: MICHIGAN FREEDOM OF INFORMATION ACT REQUEST

Dear Mr. Carlisle:

Please be advised that Eastern Michigan University (EMU) is granting in part and denying in part your July 30, 2007 Michigan Freedom of Information Act (FOIA) request.

Pursuant to Section 13(1)(d) of the Michigan FOIA your request is being denied to the extent requested records or information is exempted from disclosure by federal and/or state of Michigan laws (e.g. HIPPA). Further, pursuant to Section 13(2) of the Michigan FOIA your FOIA request is being denied to the extent it would require the release of student record information that is restricted from disclosure by the Federal Family Educational Rights and Privacy Act (FERPA), 20 USC 1232(g). After deletion of all exempt information, EMU is prepared to release redacted records/information in response to your FOIA request.

The estimated FOIA fee associated with responding to your request totals \$1,388.10 (35 employee hours x \$39.66 per hour). As the estimated FOIA fee exceeds \$50, pursuant to Section 4(2) of the Michigan FOIA EMU is requiring payment of a ½ deposit of \$694.05. Please submit a \$694.05 check to this office made payable to "Eastern Michigan University." Upon receipt of the deposit check EMU will produce the redacted records/information and require payment of the remainder of the FOIA fee. Please note, the FOIA fee would be reduced if your request was revised to require production of summary data/information.

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As your Michigan FOIA is being denied in part, I have enclosed a copy of Section 10 of the Michigan FOIA that describes your right to appeal the denial to the Head of EMU, to challenge the denial in court, and if you prevail to receive attorney fees and damages as provided for in Section 10.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ken C. McKanders".

Kenneth A. McKanders
General Counsel

/cw

Section 10

Sec. 10. (1) If a public body makes a final determination to deny all or a portion of a request, the requesting person may do 1 of the following at his or her option:

(a) Submit to the head of the public body a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the denial.

(b) Commence an action in the circuit court to compel the public body's disclosure of the public records within 180 days after a public body's final determination to deny a request.

(2) Within 10 days after receiving a written appeal pursuant to subsection (1)(a), the head of a public body shall do 1 of the following:

(a) Reverse the disclosure denial.

(b) Issue a written notice to the requesting person upholding the disclosure denial.

(c) Reverse the disclosure denial in part and issue a written notice to the requesting person upholding the disclosure denial in part.

(d) Under unusual circumstances, issue a notice extending for not more than 10 business days the period during which the head of the public body shall respond to the written appeal. The head of a public body shall not issue more than 1 notice of extension for a particular written appeal.

(3) A board or commission that is the head of a public body is not considered to have received a written appeal under subsection (2) until the first regularly scheduled meeting of that board or commission following submission of the written appeal under subsection (1)(a). If the head of the public body fails to respond to a written appeal pursuant to subsection (2), or if the head of the public body upholds all or a portion of the disclosure denial that is the subject of the written appeal, the requesting person may seek judicial review of the nondisclosure by commencing an action in circuit court under subsection (1)(b).

(4) In an action commenced under subsection (1)(b), a court that determines a public record is not exempt from disclosure shall order the public body to cease withholding or to produce all or a portion of a public record wrongfully withheld, regardless of the location of the public record. The circuit court for the county in which the complainant resides or has his or her principal place of business, or the circuit court for the county in which the public record or an office of the public body is located has venue over the action. The court shall determine the matter de novo and the burden is on the public body to sustain its denial. The court, on its own motion, may view the public record in controversy in private before reaching a decision. Failure to comply with an order of the court may be punished as contempt of court.

(5) An action commenced under this section and an appeal from an action commenced under this section shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(6) If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in an action commenced under this section, the court shall award reasonable attorneys' fees, costs, and disbursements. If the person or public body prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages under subsection (7).

(7) If the circuit court determines in an action commenced under this section that the public body has arbitrarily and capriciously violated this act by refusal or delay in disclosing or providing copies of a public record, the court shall award, in addition to any actual or compensatory damages, punitive damages in the amount of \$500.00 to the person seeking the right to inspect or receive a copy of a public record. The damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.