

UNIVERSITY of LOUISVILLE

UNIVERSITY ARCHIVES AND
RECORDS CENTER

University Libraries
University of Louisville
Louisville, Kentucky 40292

Office: 502-852-6674
Fax: 502-852-6673
<http://library.louisville.edu/uarc/>

February 8, 2007

Mr. Nate Carlisle
550 South 500 East, Apt. 15
Salt Lake City UT 84102

Dear Mr. Carlisle:

Re: U of L open records case file 07-042

As official custodian of the records of the University of Louisville I am responding to your application to inspect university records. Dated January 30, 2007, and addressed to U of L President James Ramsey, your letter was received on February 6, 2007, and forwarded to me. I received it yesterday. I respond on behalf of the university to all requests made of U of L employees under the Kentucky Open Records Act and the federal Family Educational Rights and Privacy Act, as well as to subpoenas and other requests for the inspection of university records. This includes internal as well as external requests.

You applied to inspect various records "related to the drug testing of University of Louisville athletes conducted since January 1, 2004, unless otherwise stated." I have asked the appropriate office to pull the records and get back to me no later than Monday, February 12, 2007. I plan to respond further at that time.

Sincerely yours,



William J. Morison, Ph.D.
Open Records Officer
FERPA Compliance Officer &
Director, UARC

February 12, 2007

Mr. Nate Carlisle
550 South 500 East, Apt. 15
Salt Lake City UT 84102

Dear Mr. Carlisle:

Re: U of L open records case file 07-042

This follows my February 8, 2007, acknowledgment of your open records request. You asked for records "related to the drug testing of University of Louisville athletes conducted since January 1, 2004, unless otherwise stated."

Our athletic department is working to pull these records and get them to me. It's taken me some extra time to understand the processes we use, and it's adding a bit to the normal burdens of the athletic department as my colleagues there are currently engaged in the home stretch of Big East basketball wars engaging both our men's and women's teams, football recruiting, planning for a new basketball arena and an expanded football stadium, and on and on.

I'm asking your indulgence in giving them a few more days to identify all the records and giving me a day or so to review them. I will try my best to get back to you in about a week. Also today I'll check to see if our purchasing department has any records not duplicating those in athletics. If my delay is making problems for you, please let me know. You are welcome to call or email me if that's easier for you.

With respect to fees, I don't anticipate anything beyond our nominal charges for photocopying and shipping/handling. I will inform you of those charges as soon as I can calculate

Mr. Carlisle
February 12, 2007
Page 2

them. Then on receipt of your check, made out to the University of Louisville, I will mail the records to you.

Sincerely yours,

A handwritten signature in blue ink, appearing to read 'WJ Morison', with a long horizontal flourish extending to the right.

William J. Morison, Ph.D.
Open Records Officer
FERPA Compliance Officer &
Director, UARC

February 16, 2007

Mr. Nate Carlisle
550 South 500 East, Apt. 15
Salt Lake City UT 84102

Dear Mr. Carlisle:

Re: U of L open records case file 07-042

This follows my February 8, 2007, acknowledgment of your open records request and my February 12, 2007, letter indicating I was still in the process of identifying and reviewing the responsive records. You asked for records "related to the drug testing of University of Louisville athletes conducted since January 1, 2004, unless otherwise stated." I have numbered your specific points below, and have followed each by my response, given in bold.

1. Documentation or an accounting of all positive tests. This might include internal forms recording positive tests or an electronic spreadsheet or database.

U of L's athletic department has a student athlete drug testing program coordinated by its associate director of sports medicine. Upon admission to the university as a student athlete, each student is receives a copy of a policy and procedure document and signs a consent agreement. The university outsources the administration of collecting the specimens. From our student athlete database the outsource company randomly generates a twenty to twenty-five person list for testing. All such records are those associated with individual students. The athletic department keeps the record of test results in each individual student athlete's medical file.

I realize you may not be asking specifically for personally identifiable student data, but please allow me to add my standard response to such requests. The "public disclosure" of such records pertaining to a U of L student, it seems to me,

Mr. Nate Carlisle
February 16, 2007
Page 2

"would constitute a clearly unwarranted invasion of personal privacy" (KRS 61.878(1)(a)). KRS 164.283 also makes student records confidential. Thus disclosure is withheld also under KRS 61.878(1)(1), which prohibits disclosure of documents which are prohibited from disclosure by an enactment of the General Assembly. Furthermore, KRS 61.878(1)(k) exempts from inspection "all public records or information the disclosure of which is prohibited by federal law or regulation." And in accordance with the University of Louisville Student Records Policy (for the implementation of the federal Family Educational Rights and Privacy Act of 1974, often referred to as FERPA), "No one will have access to a student's education records, nor will their contents be disclosed, without the written consent of the student, except as provided by the Act."

We don't have any other records in our possession. We don't compile any other records or reports and we don't create spreadsheets or databases containing any such information. I have attached a copy of the athletic department's policy and procedures document, "University of Louisville Athletic Association, Inc. Alcohol/Drug Policy" and the consent agreement entitled "Consent to Test Urine Sample and Authorization for Release of Information."

2. A calendar or other documentation indicating the frequency of drug tests administered to athletes.

The associate director of sports medicine chooses the dates for the tests, usually six or seven times per semester. Here are the testing dates for the years 2004-2007:

2004: 1/13, 1/27, 2/10, 2/24, 3/9, 3/23, 4/6, 4/20, 8/31, 9/14, 9/28, 10/19, 11/9, 11/30.

2005: 1/25, 2/8, 2/22, 3/8, 3/22, 4/5, 4/19, 8/30, 9/13, 9/27, 10/18, 11/1, 11/15, 11/29.

2006: 1/24, 2/14, 2/28, 3/21, 4/4, 4/18, 8/29, 9/12, 9/26, 10/17, 10/31, 11/14, 11/28.

2007: 1/16, 2/6.

Mr. Nate Carlisle
February 16, 2007
Page 3

3. Records related to punishments levied for positive tests.

The associate director of sports medicine receives the random list and the athletic training staff then notifies each student athlete. The students report at the assigned time and location. The outsourcing company verifies the chain of custody forms and the actual collection of the specimen. Each chosen athlete provides ID and signs in, receives the chain of custody form, and provides the sample to the outsourcing agent. After collection, the outsourcing agent sends the samples with the proper chain of custody documents to the independent laboratory for testing. The outsourcing agent leaves one copy of the chain of custody forms with us. After processing at the lab, the results are sent to the outsourcing company and to the associate sports medicine director via email. Each result is printed and attached to the copy of the chain of custody form in our possession. This result is reviewed by the associate sports medicine director and our medical review officer, who is an M.D. The result page and copy of the chain of custody form is then placed in each student athlete's medical file. If we receive a positive result, our policy is rehabilitative rather than punitive. The student athlete is notified of the positive result and required to attend a substance abuse counseling evaluation by a licensed counselor. The policy also requires notification of the result to the head coach and the director of athletics. After the counseling evaluation, the student athlete is required to attend counseling sessions as dictated by the recommendation of the initial evaluation. Subsequent tests will follow and second and third offenses have protocol for treatment as set forth in the Policy and Procedure document. Any such records are not open to inspection under the statute for reasons given in number one above.

4. The budget for or amount of money dedicated to drug testing for fiscal or calendar years, 2004, 2005, 2006, and 2007.

In 2005, we spent \$7,350.00; in 2006, \$17,160.00; thus far in 2007, \$924.00. I'm not sure what it would take for us to provide the figure for 2004. In our new financial accounting system we can pull these figures only as far back as 2005.

Mr. Nate Carlisle
February 16, 2007
Page 4

5. Audits or reports discussing the drug testing of athletes, excluding standardized information provided by other government agencies or the NCAA.

We are not aware of any such audits or reports.

6. Contracts or agreements with vendors who have a role in drug testing athletes.

We have not been able to locate a current agreement. For many years, apparently, we have used Forward Edge Associates, a firm in Lexington, Kentucky. For the last three years, at least, the athletic department has established blanket orders to pay Forward Edge for its services.

7. All information provided by vendors the last time your institution put the drug testing of athletes up for bid or requested proposals.

I'm sorry, but this apparently goes back a long time, evidently long before our current folks joined the university, and we haven't been able to locate such records, assuming they existed.

Please let me know if you think I can be of further assistance.

Sincerely yours,

A handwritten signature in blue ink, appearing to read 'WJM', with a long horizontal flourish extending to the right.

William J. Morison, Ph.D.
Open Records Officer
FERPA Compliance Officer &
Director, UARC

Attachments