

Nate Carlisle
550 South 500 East
Apartment 15
Salt Lake City, UT 84102

RE: Public Records Request

Dear Mr. Carlisle:

This letter is in response to your public records request dated January 30, 2007, sent to the University of Nebraska-Lincoln, and received by this office on February 6, 2007. In accordance with the requirements of *Neb. Rev. Stat. § 84-712.04*, the following information is provided in the same order as listed in your letter request.

- (a) Under Nebraska public records law, we are certainly required to produce public records in our possession, not otherwise exempt or confidential under the law. We are not, however, required to create a document or assemble information into a new document. While our student athletes' individual medical records would contain information about drug tests, there is no compilation of that data. Neither are we required to provide redacted medical records from the individual student athletes' files, as such redactions do not adequately protect the confidential nature of those records. Accordingly, such records are withheld under authority of the provisions of subsections (1) and (2) of *Neb. Rev. Stat. § 84-712.05*.
- (b) No calendar or other document exists which shows the dates of drug test administration. I have, however, enclosed a page from the current student-athlete handbook which generally discusses the frequency of the tests.
- (c) While section (1) of *Neb. Rev. Stat. § 84-712.05* protects against disclosure of punishments for individual specific violations, enclosed is the written statement as it appears in the student athlete handbook, explaining the consequences of positive drug tests.
- (d) The only costs directly associated with athletic drug tests are the costs of the test "kits" and urine analysis. The costs for the fiscal years requested is:

2004	\$11,415.00
2005	\$11,308.00
2006*	\$30,015.00
2007*	\$15,863.00 (through the first seven months)

* You may be interested to know that the difference beginning in 2006 reflects an increase in tests administered in response to the national attention given to the general problem of performance enhancing drugs and the University of Nebraska-Lincoln's desire to maintain a competitive environment free of substance abuse.

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- (e) There is no documented audit or report discussing drug testing of athletes, excluding standardized information provided by other government agencies or the NCAA.
- (f) There is no written vendor contract with respect to drug testing of athletes.
- (g) There is no documented information provided by vendors in the form of bid documents or other similar vendor proposals.

Whereas, certain portions of your request have been denied, the following information is provided in accordance with the requirements of *Neb. Rev. Stat.*, § 84-712.04, as amended, in the event you desire to seek review by the Attorney General or judicial review of any of the foregoing:

The undersigned is the public official responsible for the decisions in this letter in response to your request.

Neb. Rev. Stat. § 84-712.03, as amended, provides certain rights of judicial review or administrative review by the Attorney General of the State of Nebraska of the decisions in this letter. A copy of this statute is enclosed.

Very Truly Yours,



Carmen K. Maurer
Associate General Counsel

Enclosures
athprcarl.ckm
c: Dara Troutman
Nancy Kenny

NEB. REV. STAT. § 84-712.03

84-712.03 Public records; denial of rights; remedies. Any person denied any rights granted by sections 84-712 to 84-712.03 may elect to: (1) File for speedy relief by a writ of mandamus in the district court within whose jurisdiction the state, county, or political subdivision officer who has custody of the public record can be served; or (2) Petition the Attorney General to review the matter to determine whether a record may be withheld from public inspection or whether the public body that is custodian of such record has otherwise failed to comply with such sections. This determination shall be made within fifteen calendar days of the submission of the petition. If the Attorney General determines that the record may not be withheld or that the public body is otherwise not in compliance, the public body shall be ordered to disclose the record immediately or otherwise comply. If the public body continues to withhold the record or remain in noncompliance, the person seeking disclosure or compliance may (a) bring suit in the trial court of general jurisdiction or (b) demand in writing that the Attorney General bring suit in the name of the state in the trial court of general jurisdiction for the same purpose. If such demand is made, the Attorney General shall bring suit within fifteen calendar days of its receipt. The requester shall have an absolute right to intervene as a full party in the suit at any time.

In any suit filed under this section, the court has jurisdiction to enjoin the public body from withholding records, to order the disclosure, and to grant such other equitable relief as may be proper. The court shall determine the matter de novo and the burden is on the public body to sustain its action. The court may view the records in controversy in camera before reaching a decision, and in the discretion of the court other persons, including the requester, counsel, and necessary expert witnesses may be permitted to view the records, subject to necessary protective orders.

Proceedings arising under this section, except as to the cases the court considers of greater importance, shall take precedence on the docket over all other cases and shall be assigned for hearing, trial, or argument at the earliest practicable date and expedited in every way.

Source:

Laws 1961, c. 454, § 5, p. 1384; Laws 1977, LB 39, § 316;
Laws 1979, LB 86, § 3; Laws 2000, LB 628, § 3.