



STATE OF NEBRASKA  
**Office of the Attorney General**

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**MIKE HILGERS**  
ATTORNEY GENERAL

**LESLIE S. DONLEY**  
ASSISTANT ATTORNEY GENERAL

September 10, 2024

Via email at [REDACTED]  
Chad Humphrey

RE: *Public Record Matters Involving the University of Nebraska*  
Our File No. 20241166

Dear Mr. Humphrey:

This letter is in response to the public records petitions you emailed to this office on August 24 and 26, 2024, which we received on August 26 and 27, respectively. You allege in your first petition that a response to your August 19, 2024, public records request to the University of Nebraska (University) was "overdue." Your second petition requested our investigation into the University's refusal to provide you the personal email addresses of members of the University of Nebraska Medical Center (UNMC) Chancellor's Board of Counselors. Upon receipt, the undersigned discussed your petitions with Jaclyn Klinto, Director of University Records/Associate General Counsel. We considered your petitions in accordance with the Nebraska Public Records Statutes (NPRS), Neb. Rev. Stat. §§ 84-712 through 84-712.09 (2014, Cum. Supp. 2022), amended 2024 Neb. Laws LB 43 and LB 1204. Our findings in this matter are set forth below.

### **FACTS**

On Monday, August 19, 2024, you emailed Ms. Klinto a records request seeking the email addresses of certain UNMC personnel as follows:

I am requesting the email address of the following UNCM [sic] personnel. In the event that the email address is restricted, I would politely ask that their assistant's email or the community email for example "office\_ of\_ the\_ Interim\_ Chancellor@unmc.edu" be provided.

1. Interim Chancellor H. Dele Davies, MD, t
2. Jane Meza, PhD, Interim Vice Chancellor for Academic Affairs
3. Kyle P. Meyer, PhD, MS, PT, FASAHP Kyle P. Meyer, PhD, College of Allied Health Professions
4. Gerard "Gerry" Kugel, DMD, PhD Gerard "Gerry" Kugel, DMD, PhD, College of Dentistry
5. Bradley Britigan, MD Bradley Britigan, MD, College of Medicine
6. Lepaine Sharp-McHenry, DNP Lepaine Sharp-McHenry, DNP, College of Nursing
7. Keith M. Olsen, PharmD, FCCP, FCCM Keith M. Olsen, PharmD, College of Pharmacy
8. Ali Khan, MD, MPH Ali Khan, MD, MPH, College of Public Health
9. Joann Sweasy, PhD Joann B. Sweasy, PhD, Eppley Institute and Fred & Pamela Buffett Cancer Center
10. Kendra Schmid, PhD Kendra K. Schmid, PhD, Graduate Studies
11. Karoly Mirnics, MD, PhD Karoly Mirnics, MD, PhD, Munroe-Meyer Institute
12. Emily Glenn, MSLS Emily Glenn, MSLS, Leon S. McGoogan Health Sciences Library Affairs
13. Anne Barnes, MBA, Vice Chancellor for Business, Finance and Business Development
14. Chris Kratochvil, MD, Vice Chancellor for External Relations
15. Kenneth W. Bayles, PhD, Vice Chancellor for Research
16. Jeffrey P. Gold, M.D. President, University of Nebraska System

Your request also listed 86 individuals serving on the "UNMC Board of Counselors."

According to documentation we received from Ms. Klintoe, she responded to your request on Friday, August 23, 2024, at 3:31 p.m. Ms. Klintoe informed you that the University maintains an online directory and that "[a]ll publicly available, University email addresses are searchable through that online tool." She provided a link to the directory for your convenience. You purportedly did not receive Ms. Klintoe's response, which prompted your petition.<sup>1</sup>

Your second petition concerns your request for the personal email addresses of the individuals serving on the Board of Counselors. In response, Ms. Klintoe advised you, by email on August 26, that some but not all of these individuals serve the University in some capacity, and would have public email addresses accessible on the University directory. However, she denied you access to the personal email addresses of the other

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<sup>1</sup> We note that you copied the members of the Nebraska Legislature on your petition to this office "[t]o ensure transparency," asserting "delays and unprofessional behavior when interacting with [the University]."

members on the basis of Neb. Rev. Stat. § 84-712.05(8),<sup>2</sup> since “[t]he University does not consider personal email addresses to be public directory information . . . .”

You assert in your petition that the Board of Counselors “are compensated by the Nebraska education system . . . [and] are effectively operating in a public capacity.” You further assert that since tax dollars are being expended, the email addresses should not be considered “private” and that “[t]he public has a right to access the contact information of individuals who serve in a compensated capacity within public institutions . . . .” You reiterated your claim that the response was untimely, and allege that the response was incomplete. Finally, you express “concern[ ] that there may be an intent to cover up information, given the lack of transparency and the delay in providing a response.”

Ms. Klintoe informs us that the Board of Counselors is not a formal board subject to the “Open Meetings Act or the other formalities that apply to public bodies.” She states that “[t]he Board of Counselors is simply a group of community members from across Nebraska who serve as ambassadors to UNMC and promote its mission.” The members “provide counsel to the Chancellor on various topics and attend an annual meeting.” Only the members who serve the University in another capacity, and have been issued an email in that capacity, have public University email addresses.

## DISCUSSION

Public records in Nebraska are defined as “all records and documents, regardless of physical form, of or belonging to this state, any county, city, village, political subdivision, or tax-supported district in this state, or any agency, branch, department, board, bureau, commission, council, subunit, or committee of any of the foregoing.” Neb. Rev. Stat. § 84-712.01(1). The procedure to obtain public records is set out in Neb. Rev. Stat. § 84-712(4). This provision requires a records custodian to respond to a written request for records “as soon as is practicable and without delay, but not more than four business days after actual receipt of the request . . . .” The response may take many forms, including providing the records, denying access to the records and citing a legal basis to do so, or delaying production of the records. Section 84-712(4) specifies that “[t]he four business days shall be computed by excluding the day the request is received, after which the designated period of time begins to run.”

Upon review of the documentation received, we are satisfied that Ms. Klintoe timely responded to your records request. Since your request was “actually” received on Monday, August 19, Tuesday (August 20) was day one of the four business days, and Friday (August 23) was day four. The email address used by Ms. Klintoe in her August 23 response is the same address used in her other correspondence to you, which by all

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<sup>2</sup> This exception allows public bodies to withhold, at its discretion, “[p]ersonal information in records regarding personnel of public bodies other than salaries and routine directory information” “unless publicly disclosed in an open court, open administrative proceeding, or open meeting or disclosed by a public entity pursuant to its duties . . . .”

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accounts you received. The only difference that we can see is the email address is preceded by “Chad” instead of “Chad Humphrey” on the “To:” line. In any event, Ms. Klintoe emailed you a response on the fourth business day after she received your request, thus complying with § 84-712(4).<sup>3</sup>

As to your request for the personal email addresses of the members of the Board of Chancellors who are not otherwise affiliated with the University, we do not consider those records to be “public records.” According to the UNMC’s Board of Chancellors webpage:

The UNMC Chancellor’s Board of Counselors is a statewide citizen advisory group charged with two major responsibilities.

First, members serve as “ambassadors” for UNMC. They learn about our world-class programs and share this knowledge with others at every opportunity. Second, they provide advice and counsel to UNMC leaders in a number of areas. What are we doing right or wrong? What should our priorities be? How can we better tell the “UNMC story”?

Members of the Board of Counselors are committed to helping UNMC foster relationships and engagement opportunities throughout the state. These come in many forms, such as arranging a local speaking engagement for the Chancellor, acting as an advocate for UNMC, or attending a regional Board of Counselor’s meeting with the Chancellor.

See <https://www.unmc.edu/aboutus/leadership-mission/bdofcounselors.html>. The board is comprised of 86 members. The board is not created in the Constitution, statute or regulation. The members act as advisors to the UNMC Chancellor, not to any public body.<sup>4</sup> And even if we were to assume that the Board of Counselors is a public body, and its members were public officials, § 84-712.05(8) would provide a basis to withhold personal email addresses. However, since we conclude that the email addresses are not

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<sup>3</sup> We note that Ms. Klintoe emailed a copy of this email to you on August 26, 2024, while responding to another records request from you emailed to her that morning.

<sup>4</sup> This office has previously considered whether certain groups that were advisory to government officials constituted a public body subject to the Open Meetings Act. For example, in Op. Att’y Gen. No. 95014 (February 22, 1995), the Attorney General indicated that the Mayor’s Citizen Review Board, appointed by the Mayor of Omaha to advise the mayor with respect to alleged misconduct of police officers, was not subject to the open meetings statutes because it did not fall under the definition found in § 84-1409(1), and because the board was essentially an administrative body which was part of the management structure of the City. In addition, in Op. Att’y Gen. No. 92020 (February 12, 1992), the Attorney General concluded that committees of faculty, administration and students created by the University Board of Regents to advise the Chancellor in his administrative/management function with respect to budget cuts were part of the management structure of the University and not public bodies subject to the open meetings statutes.

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public records in the first instance, there is no need to consider the University's reliance on the exception.

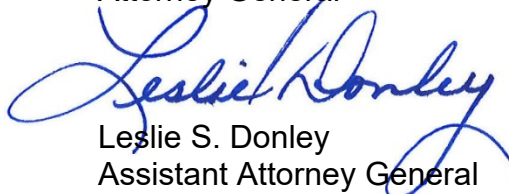
### CONCLUSION

There is nothing in either of your petitions to suggest that the University failed to comply with the NPRS or unlawfully denied you access to public records. This office's long history in dealing with public records petitions involving the University has disclosed no "lack of transparency" or "unprofessional behavior." Since we have identified no violations involving the NPRS, no further action by this office is necessary and we are closing this file.

If you disagree with our analysis, you may wish to discuss this matter with your private attorney to determine what additional remedies may be available to you under the NPRS.

Sincerely,

MIKE HILGERS  
Attorney General



Leslie S. Donley  
Assistant Attorney General

c: Jaclyn Klintoe (via email)  
Senator Ray Aguilar (via email)

49-3621-31