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July 24, 2026

Via email at [REDACTED]
Henry J. Cordes
[REDACTED]

RE: *Public Record Matter Involving the University of Nebraska*
Our File No. 20261062

Dear Mr. Cordes:

This letter is in response to your public records petition received by this office on July 9, 2026. You have requested this office to review the response you received from the University of Nebraska (University) relating to your May 11, 2026, records request. On July 10, we forwarded your petition to Molly McCleery, Associate General Counsel and Director of University Records, and requested a legal analysis explaining how the statutory exception relied on by the University applied to the redactions in the records you received. We received Ms. McCleery's response on July 17. We considered your petition and the University's response in accordance with the Nebraska Public Records Statutes (NPRS), Neb. Rev. Stat. §§ 84-712 to 84-712.09 (2024), as amended 2026 Neb. Laws LB 525 and LB 1096. Our findings are set out below.

RELEVANT FACTS

On May 11, 2026, you submitted the following request to the University via its online portal:

When the NU board of regents approved the \$600 million Memorial Stadium renovation project, there was mention of \$200 million in required deferred maintenance. I would like to know more about what that \$200 million consists of. So I would like documents or reports that lay out the deferred maintenance needs at the stadium. We also know a section of South Stadium collapsed back in the 1990s. So as part of my request, I would also like to see any structural evaluations

in the past five years, particular for the older parts of the stadium like West Stadium and South stadium. Thanks!

After a brief delay, on May 28 Ms. McCleery provided you a link to seven responsive records, listed in order by date below:

- (1) University of Nebraska Memorial Stadium—2022 Annual Structural Inspection (March 6, 2023);
- (2) University of Nebraska Memorial Stadium—2024 Annual Structural Inspection (January 10, 2025);
- (3) UNL Memorial Stadium—Lerch Bates Report (Vertical Transportation) (March 25, 2025);
- (4) UNL Memorial Stadium Facility Assessment (March 28, 2025);
- (5) Kiewit/AECOM Hunt Cost Estimates (May 5, 2025);
- (6) University of Nebraska Memorial Stadium—2025 Annual Visual Inspection (December 8, 2025)

The seventh document, totaling 329 pages, is comprised of Kiewit/AECOM Hunt Cost Estimates (April 17, 2025), and the documents referenced in numbers (4) and (2) above. Ms. McCleery informed you the University was withholding one record and additional materials through redaction “pursuant to Neb. Rev. Stat. § 84-712.05(9) (information pertaining to the security of public property).” She further informed you that signatures of individuals not affiliated with the University were redacted “as a courtesy to third parties.”

Your petition challenges the extent of the redactions. You assert the University’s interpretation of the exception is “overly broad” and the exception’s clear “intent is to prevent against terrorist attack.” You also fail to see how a physical inspection report of the stadium’s infrastructure would fall under the exception. You argue that the word “solely” appearing in the exception limits its application to “certain limited things.” Also, the exception’s specific reference to “design drawings” appears to relate only to “public utility infrastructure,” which would not include Memorial Stadium. And even if it did, redacted material included “not only design drawings but all narrative of what was found in the inspections of Memorial Stadium infrastructure, including any issues that needed to be addressed,” which you believe goes well beyond the language and intent of the exception. You state that, alternatively, the University could redact the drawings and provide the narratives. Finally, you do not see how disclosing findings on the stadium’s physical condition “would endanger public safety,” finding “[i]t would more likely have the opposite effect, promoting public safety by assuring that any shortcomings found are being addressed.”

Ms. McCleery informs us that the University identified eight responsive records. These records “include photos and narratives describing the structure and mechanics of Memorial Stadium, including architectural, plumbing, electrical, mechanical, and other assessments and maps and drawings. The photos and narratives include information that

details the plumbing, electrical, mechanical, and vertical transportation (elevator and escalator) systems and particular structural and system vulnerabilities in Memorial Stadium.” She states that each record contains “unique vulnerability assessments and assessments pertaining to the safety of public property and persons within it.” The University provided you seven of these documents with redactions and withheld one document in its entirety. Ms. McCleery states that the University determined that disclosing the records presented safety risks to the stadium and people within the stadium including people attending events. Disclosure would give parties planning an attack “detailed information regarding the stadium’s construction and layout and particular vulnerabilities of the stadium’s systems and their components, structures, and fixtures,” thus making the exception applicable.

Ms. McCleery further asserts that you are reading the exception too *narrowly* in light of the plain language, which is not limited to preventing “terrorist attacks,” and points out that “scenarios involving terrorist threats” do not appear in the exception. She acknowledges that a terrorist attack is a threat contemplated by the exception “and one contemplated by the University in withholding the records at issue” However, the exception is not limited to terrorist attacks. Ms. McCleery cites to two previous dispositions of this office in which we determined that § 84-712.05(9) provided a basis to withhold certain records¹ that in no way involved a “terrorist attack.”

In response to your claims that the exception is limited to only certain things, or that the design drawings of Memorial Stadium do not qualify for protection, Ms. McCleery points out that the “solely” qualifier does not limit records that may be subject to the exception. The plain language of the exception, i.e., “[i]nformation solely pertaining to protection of the security of public property and persons on or within public property, *such as* . . .” demonstrates that the list within the exception is not exhaustive and contemplates the inclusion of other forms of records than those expressly listed. She asserts the Memorial Stadium design drawings are one form of records that could fall within the exception, as well as the records this office found could be withheld under § 84-712.05(9). See fn 1.

Finally, Ms. McCleery represents that

the University determined that disclosure of the records at issue poses a safety risk contemplated by Neb. Rev. Stat. § 84-712.05(9) by conveying details regarding the architecture and layout of Memorial Stadium and its systems and components, and unique vulnerabilities assessed on the property. This

¹ See *File No. 2024-1070; Secretary of State; Robert J. Borer, Petitioner* (May 6, 2024) (Concluding the exception applied to the Secretary’s and Deputy Secretary’s Outlook calendars); and *File No. 2024-1219; Lancaster County Election Commissioner; Robert J. Borer, Petitioner* (December 4, 2024) (Concluding that video surveillance footage of the Eiseley Library ballot drop box could be withheld under the exception). Copies of these disposition letters are available at <https://ago.nebraska.gov/disposition-letters>.

information, if disclosed, could be exploited by those who seek to threaten safety of people at Memorial Stadium or the integrity of the physical structure of the stadium.

DISCUSSION

Neb. Rev. Stat. § 84-712.05 allows record custodians, at their discretion, to withhold the various categories of public records listed in the statute so long as those records have not been previously disclosed in an open court, open administrative proceeding, open meeting or otherwise pursuant to their duties. The exception here pertains to

[i]nformation solely pertaining to protection of the security of public property and persons on or within public property, such as specific, unique vulnerability assessments or specific, unique response plans, either of which is intended to prevent or mitigate criminal acts the public disclosure of which would create a substantial likelihood of endangering public safety or property; computer or communications network schema, passwords, and user identification names; guard schedules; lock combinations; or public utility infrastructure specifications or design drawings the public disclosure of which would create a substantial likelihood of endangering public safety or property, unless otherwise provided by state or federal law;

Neb. Rev. Stat. § 84-712.05(9). The public body bears the burden of showing that a statutory exception applies to the disclosure of particular records. *Evertson v. City of Kimball*, 278 Neb. 1, 767 N.W.2d 751 (2009); *State ex rel. Nebraska Health Care Ass'n v. Dept. of Health and Human Services Finance and Support*, 255 Neb. 784, 587 N.W.2d 100 (1998). “Because the Legislature has expressed a strong public policy for disclosure, an appellate court must narrowly construe statutory exemptions shielding public records from disclosure.” *Aksamit Resource Mgmt. v. Nebraska Pub. Power Dist.*, 299 Neb. 114, 122, 907 N.W.2d 301, 308 (2018).

With these legal principles in mind, we considered whether the exception could be construed in such a manner to include the reports you received. We reviewed again the original language of the exception created by the Nebraska Legislature in 1979, and considered that from its inception it applied to the “physical security of public property.”² And while other items were added to the exception through the years, we do not agree that they actually limited the exception’s scope. This construction is consistent with previous analyses when we agreed with public bodies that records *such as* swipe card

² 1979 Neb. Laws LB 86, § 5.

access records,³ security footage, and public officials' calendars fit within the exception's parameters.

Please note this office carefully reviewed the records you received. We agree that the documents were *heavily* redacted, so much so that we questioned whether redactions to this extent were in fact necessary. However, this situation once again illustrates the limitations we face when attempting to determine whether certain exceptions asserted by public bodies to withhold public records, or redact information in this case, do in fact apply. Our enforcement authority prescribed in § 84-712.03 does not allow us to see the records in dispute; only courts can conduct *in camera* reviews. See Neb. Rev. Stat. § 84-712.03(2). Consequently, we are left with Ms. McCleery's representations⁴ that the withholding/redactions were necessary to ensure the safety of individuals at Memorial Stadium and the security of the facility itself.

Finally, in addition to the redactions, Ms. McCleery's May 28 response indicates "one record" was withheld. Neb. Rev. Stat. § 84-712.04(1)(a) requires the public body to provide the following information when denying access to public records:

A description of the contents of the records withheld and a statement of the specific reasons for the denial, correlating specific portions of the records to specific reasons for the denial, including citations to the particular statute and subsection thereof expressly providing the exception under section 84-712.01 relied on as authority for the denial;

Neither the withheld record nor the redactions were described in the University's response. This may have appeared to be a daunting task considering the amount of material redacted. However, the volume does not excuse the statutory requirement to provide the requester a description of what is being withheld. Accordingly, we will strongly urge the University to remember and comply with the requirements in § 84-712.04 when processing public records requests in the future.

³ See *File No. 10-R-109; University of Nebraska Medical Center; Petitioner Amy Coburn, DVM* (May 20, 2010).

⁴ See *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (Neb. Ct. App. 2009) ("In the absence of evidence to the contrary, it may be presumed that public officers faithfully performed their official duties and that absent evidence showing misconduct or disregard of law, the regularity of official acts is presumed.").

CONCLUSION

Upon careful consideration of the arguments from both parties, we believe the University has sustained its burden to show that the redactions in the reports and cost estimates made under the exception in Neb. Rev. Stat. § 84-712.05(9) were appropriate. Technical compliance with Neb. Rev. Stat. § 84-712.04(1)(a) was not met however, and we stress strict compliance with this statute in the future. Since we decline to take any further action with respect to this matter, we are closing our file.

If you disagree with the conclusion reached above, you may wish to review the other remedies available to you under Neb. Rev. Stat. § 84-712.03.

Sincerely,

MIKE HILGERS
Attorney General



Leslie S. Donley
Assistant Attorney General

c: Molly McCleery (via email only)

49-4217-31