

Copies Correspondence
to P. Hesselbacher



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

ANDY BESHEAR
ATTORNEY GENERAL

June 15, 2016

CAPITOL BUILDING, SUITE 118
700 CAPITOL AVENUE
FRANKFORT, KENTUCKY 40601
(502) 696-5300
FAX: (502) 564-2894

Ms. Sherri Pawson
Senior Compliance Officer
Archives and Special Collections
University of Louisville
400 Ekstrom Library
Louisville, KY 40292

Re: Open Records Appeals – Log Numbers 201600105 and 201600061

Dear Ms. Pawson:

As you know, this office is currently reviewing the two above-referenced open records appeals involving the University of Louisville. In the discharge of its duties, this office has previously corresponded with the University pursuant to KRS 61.880(2)(c) in both of these appeals.

- **Log Number 201600105:** On March 11, 2016, the University was asked to describe how it conducted its search for “documents, reports, and other information” in President Ramsey’s possession that caused him to suspend the University of Louisville men’s basketball team from post-season play. In addition, we asked that the University describe how it conducted its search for “documents, reports, and other information” in the custody of other parties “such as an administrator or a program director.” (Emphasis added.) The University’s response is based on an erroneous belief that Dr. Hesselbacher’s request was confined to “document, reports, and other information” that Dr. Ramsey had “in hand on February 4 when the decision was made.”
- **Log Number 201600061:** On April 14, 2016, the University was asked to provide for *in camera* review an unredacted copy of the requested records, which consisted of all materials “requested by the NCAA

from 1/1/2014 through present date” or “issued by the University of Louisville in response to a request by the NCAA from 1/1/2014 through present date.” The materials you provided for our review contained no reference to the matter under investigation by the NCAA that has led to the suspension of the men’s basketball team from post-season play in 2016.

Both of the open records appeals relate to materials regarding NCAA investigations. The appeals include requests for documents related to the widely reported NCAA investigation of the men’s basketball team and the allegations which led to the decision to forgo post-season play. However, while you do not specifically state, your responses to both of the aforementioned requests for additional documents indicate that you do not possess any records related to this investigation. We are, therefore, compelled to request additional information and further *in camera* review of records.

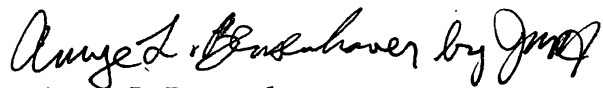
1. With regard to both appeals, please state whether any records exist relating to the NCAA’s investigation into the widely reported allegations concerning the men’s basketball team and Mr. Andre McGee, former director of basketball operations, which led to the decision to forgo post-season play.
2. If such records do exist, please provide them to our office for *in camera* inspection. Pursuant to KRS 61.880(2)(c), we acknowledge our obligation not to disclose these documents.
3. With regard to Log Number 201600105, please describe in detail the search method used to locate responsive records, including but not limited to the search method used to locate “records in the custody of other parties such as an administrator or a program director.”

Please respond to these inquiries within seven calendar days of the date of this letter. In responding, please bear in mind that records in the custody of an attorney, investigator, or other agent of the University are not thereby excluded from the reach of the Open Records Act. A public agency cannot avoid producing records responsive to an open records request by placing public records in the hands of a contracted employee or a non-public entity.

As always, please provide the appellants in the respective appeals with a copy of the University's written response (excluding documents submitted for *in camera* review). We appreciate the University's anticipated cooperation in this matter.

Sincerely,

Andy Beshear
Attorney General



Amye L. Bensenhaver



James M. Herrick
Assistant Attorneys General

#105

#61

cc: Leslie Chambers Strohm, Esq.
Amy E. Shoemaker, Esq.
Dr. Peter Hasselbacher
Mr. Brendan McCarthy

June 21, 2016

(via Facsimile (502) 564-6801)
James M. Herrick
Amye L. Bensenhaver
Office of the Attorney General
Commonwealth of Kentucky
700 Capital Avenue
Frankfort, Kentucky 40601

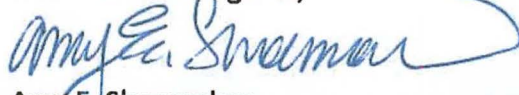
Re: Open Records Appeals
Log Number: 201600105 and 201600061

Dear Attorneys Herrick and Bensenhaver:

Please allow this letter to serve as a request for an extension in responding to your letter dated June 15, 2016. There are multiple aspects of this letter which require a thorough and thoughtful response on behalf of the University of Louisville. To that end, I respectfully request until July 8, 2016 to respond.

Please let me know if you are not amenable to this request. Do not hesitate to contact me in the interim if you have any questions or concerns.

With warmest regards,



Amy E. Shoemaker

Cc: Peter Hasselbacher, M.D.
Mr. Brendan McCarthy

FACSIMILE TRANSMISSION	
TO: Amye Bensenhaver, Esq. James Herrick, Esq. Office of the Attorney General	FROM: Amy E. Shoemaker, Esq Associate University Counsel TELEPHONE NO.: (502) 852-6981
FAX NO.: (502) 564-6801	FAX NO.: (502) 852-5818
DATE: Tuesday, June 21, 2016	NO. OF PAGES (INCLUDING THIS PAGE): 2
SUBJECT: UNIVERSITY OF LOUISVILLE Log Numbers: 201600105 and 201600061	
CONFIDENTIALITY NOTICE:	
<p>The information contained in this facsimile message, and in any accompanying documents, constitutes confidential information which belongs to the University Counsel Office of the University of Louisville. This information is intended only for the use of the individual or entity named above. If you are not the intended recipient of this information, you are hereby notified that any disclosure, copying, distribution, or the taking of any action in reliance on this information, is strictly prohibited. If you have received this facsimile in error, please immediately notify us by telephone, at the number listed above, to arrange for its return to us. Thank you.</p>	



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

ANDY BESHEAR
ATTORNEY GENERAL

June 23, 2016

CAPITOL BUILDING, SUITE 118
700 CAPITOL AVENUE
FRANKFORT, KENTUCKY 40601
(502) 696-5300
FAX: (502) 564-2894

Ms. Amy E. Shoemaker
Associate University Counsel
University of Louisville
Office of University Counsel
Grawemeyer Hall
Louisville, KY 40292

Re: Open Records Appeals - Log Number 201600105 and 201600061

Dear Ms. Shoemaker:

This will acknowledge receipt of your June 21, 2016, request for an extension of time until July 8, 2016, to respond to our June 15, 2016, request for additional information. We agree to this extension and will expect the University's response on July 8.

Sincerely,

Andy Beshear
Attorney General

Amye L. Bensenhaver
Assistant Attorney General

James M. Herrick
Assistant Attorney General

#105

cc: Peter Hasselbacher, M.D.
Brendan McCarthy