



## STATE OF FLORIDA

**BILL McCOLLUM**  
**ATTORNEY GENERAL**

June 12, 2009

Dr. Myles Brand, President  
National Collegiate Athletic Association  
700 West Washington Street  
Indianapolis, IN 46206-6222

Dear Dr. Brand:

It has come to my attention that the National Collegiate Athletic Association (NCAA) is refusing to provide access to a record transmitted to Florida State University for use by the University in transacting official state business. Under Florida's Public Records law, the NCAA must provide copies of or access to such record to anyone making a public record request.

I understand the NCAA has made the document at issue accessible to Florida State University in order for the University to submit a response to the NCAA. Clearly, the University has received this document from the NCAA in connection with official business. I further understand that Florida State University has commented on its willingness to make available the requested document, however, the NCAA has protected the document in a database and limited its availability.

Under Florida law, documents made or received by an agency in connection with the transaction of official business are public records subject to inspection and copying by any person. Inasmuch as the NCAA has provided the letter in a format which the University may only view but not download or otherwise copy, it appears that the NCAA is therefore acting as the custodian of this record on behalf of the University.

A lack of physical custody of a document does not excuse Florida State University from its obligations under Florida law. Furthermore, a custodian may not impose a rule or condition of inspection which operates to restrict or circumvent a person's right of access. Thus the NCAA, as the University's custodian of the letter, is obligated to comply with the requirements of Florida's Public Records Law. Section 119.07(1)(a), F.S., establishes a right of access to public records in plain and unequivocal terms:

Every person who has custody of a public record shall permit the record to be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public records.

I would note that in addition to civil remedies and attorney's fees, violations of Florida's Public Records Law are also punishable by possible criminal penalties of one year in prison, \$1000 fine, or both.

As you know, the documents at issue are considered to be at the crux of a significant matter for Florida State University, its football program, and thousands of football fans throughout the state. The records request is therefore all the more important for the people of Florida who wish to obtain vital information about a University matter in which they have invested time, money, and a sense of honor. I urge your compliance with Florida's Public Records requirements.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill McCollum". The signature is fluid and cursive, with a prominent initial "B" and "M".

Bill McCollum  
Attorney General

cc: Betty Steffens, General Counsel  
Florida State University  
214 Westcott  
Tallahassee, FL 32306