

May 4, 2021

The Honorable Pete Ricketts  
Office of the Governor  
P.O. Box 94848  
Lincoln, NE 68509-4848

*Re: Press access*

Dear Governor Ricketts,

For over 50 years in Nebraska, the ACLU has worked in courts, legislatures, and communities to protect the constitutional and individual rights of all people. With a nationwide network of offices and millions of members and supporters, we take up the toughest civil liberties fights, daring to create a more perfect union.



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The freedom of the press, protected by the First Amendment, is critical to a democracy in which the government is accountable to the people. A free media functions as a watchdog that can investigate and report on government wrongdoing. It is also a vibrant marketplace of ideas, a vehicle for ordinary people to express themselves and gain exposure to a wide range of information and opinions. The ACLU has played a central role in defending the freedom of the press because we know that when press freedom is harmed, it is much harder to hold our government accountable.

In that spirit, we write to respectfully suggest you hit the reset button and reconsider two decisions regarding media access to your briefings.

The first decision that needs to be reexamined is your decision to ban North Omaha Information Support Everyone (NOISE) from press briefings.

NOISE is a community news organization dedicated to serving North Omaha, founded with support from the storied *Omaha Star* and local radio stations.<sup>1</sup> Established and well-respected journalists serve on their staff, including a journalist who works with National Public Radio<sup>2</sup> and another journalist who has earned awards from the Omaha Press Club, Nebraska Press Association, and American Jewish Press Association.<sup>3</sup>

NOISE has three stated focus areas for news coverage: civics, community, and culture. They believe that civic news is at their core because they recognize there is no participatory democracy unless the citizenry is informed of their rights, the actions of their elected officials, and the impact of public policy. NOISE's in-depth coverage of municipal, state, and federal government works to put civics back in the

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<sup>1</sup> <http://www.tedxcreightonu.com/speakers/bio-dawaune-hayes/>

<sup>2</sup> <https://www.npr.org/people/936267858/emily-chen-newton>

<sup>3</sup> <https://leoadambiga.com/about/>



hands of the people. NOISE subscribes to standards of editorial independence adopted by the Institute for Nonprofit News.<sup>4</sup>

NOISE conducts their noble First Amendment work seriously and professionally and frequently attends press events in Omaha regarding civic affairs, such as press briefings held by the Omaha Mayor's Office, the Omaha Police Department, and other local government agencies. NOISE also provides important coverage of community and cultural events.

Since July of 2020, representatives of NOISE have emailed your communications staff regarding various civic affairs. Your staff has consistently ignored these questions from NOISE journalists. Most of these questions focused on various aspects of the state's response to the COVID-19 pandemic, which has serious health consequences and an undeniable disparate impact on the communities they serve, including Black Nebraskans and all Nebraskans of color in North Omaha.

More recently, a NOISE reporter emailed your communication staff to inquire about the credentialing process for attending your regular press briefings. She sought to have the opportunity to pose questions, which is not available by simply watching the live feed. Her questions were met with a lack of response, delay, or diversion tactics. On March 31, 2021, the reporter attempted to attend one of these press briefings that are generally open to journalists, guests, and others. Your staff directed security to bar her from the room. Immediately thereafter, the reporter followed up with your communication staff to learn more about your established policies and practices on these matters. Your staff ignored NOISE's questions about credentialing policies and criteria until the *Omaha World-Herald* chose to write on the subject. Since that time, several major media outlets have covered and criticized this disparate treatment.<sup>5</sup>

This leads us to the second decision that is deserving of reconsideration: your decision to hastily develop a confusing, arbitrary, and suspect credentialing policy<sup>6</sup> that has rightly raised a host of concerns among members of the media and the public.<sup>7</sup> We share concerns identified by the Reporters Committee for Freedom of the Press that the new credentialing process could allow your staff to arbitrarily restrict bona fide journalists and outlets, such as NOISE, from attending press briefings under the guise of content neutral security and operational considerations. This policy must be reworked or entirely abandoned in favor of an approach that better preserves open government.

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<sup>4</sup> <https://www.noiseomaha.com/about>

<sup>5</sup> [https://omaha.com/opinion/editorial/editorial-ricketts-denial-of-noise-omaha-media-credentials-is-crass-politics-contrary-to-first-amendment/article\\_ac91d7b6-9c68-11eb-80fd-83e7cc473dff.html](https://omaha.com/opinion/editorial/editorial-ricketts-denial-of-noise-omaha-media-credentials-is-crass-politics-contrary-to-first-amendment/article_ac91d7b6-9c68-11eb-80fd-83e7cc473dff.html)

<sup>6</sup> <https://governor.nebraska.gov/press/governor%E2%80%99s-office-issues-media-credentialing-application>

<sup>7</sup> [https://journalstar.com/news/state-and-regional/govt-and-politics/article\\_4064a17f-7599-596a-af26-35ec8294e305.html](https://journalstar.com/news/state-and-regional/govt-and-politics/article_4064a17f-7599-596a-af26-35ec8294e305.html)



As the late U.S. Supreme Court Justice Hugo Black wrote, the role of the press is to “serve the governed, not the governors”.<sup>8</sup> Journalists give voice to the needs of our communities and help ensure elected officials are responsive to those needs. In short, the press has always been critical to a vibrant democracy in which the government is accountable to its people. The media and an informed citizenry help breathe life into our state motto of “Equality before the law” and embody the inscription on our own beloved State Capitol, which you walk through daily to conduct the people’s business: “The salvation of the State is in the watchfulness of the Citizen”.<sup>9</sup>

Thus, we urge you to allow NOISE to attend your events and we urge you to reconsider your credentialing policy, replacing it with a process that is both fair and clear. If you choose to retain a credentialing application, questions should not solicit more information than necessary to meet the professed goals of security and operational capacity and there should be no ambiguity on how answers will affect access to credentialed events. A reworked policy should recognize the evolution of the modern media landscape. NOISE, a solely online organization, reaches far more readers than, say, the required minimum set out in the state’s definition of a legal newspaper. A print periodical or broadcast signal should not be a prerequisite for attendance. Finally, this updated policy should be administered evenhandedly by your communications staff, whose wages are paid by Nebraska taxpayers who expect them to do their jobs professionally

In closing, we challenge you to chart a new path and to lead with sound policy and fair practices so journalists can do their important jobs and so that more Nebraskans understand and participate in civic affairs. We pledge to help and offer feedback with the promulgation and implementation of sound policy. We thank you for your commitment to public service.

Sincerely,

A handwritten signature in blue ink, appearing to read "Danielle Conrad", written over a horizontal blue line.

Danielle Conrad  
Executive Director  
ACLU of Nebraska

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<sup>8</sup> <https://www.oyez.org/cases/1970/1873>

<sup>9</sup> <https://capitol.nebraska.gov/building/history/team/hartley-burr-alexander/#:~:text=The%20inscription%20over%20the%20main,noble%20life%20guided%20Alexander's%20thoughts.>