



STATE OF NEBRASKA
Office of the Attorney General

2115 STATE CAPITOL BUILDING
LINCOLN, NE 68509-8920
(402) 471-2682
TDD (402) 471-2682
FAX (402) 471-3297 or (402) 471-4725

MIKE HILGERS
ATTORNEY GENERAL

RYAN D. BAKER
ASSISTANT ATTORNEY GENERAL

March 5, 2025

Via email: [REDACTED]

Ronald Brown
[REDACTED]

RE: *Public Records Matter Involving the Village of Boys Town*
Our File No. 20251024

Dear Mr. Brown:

This letter is in response to your petition received by this office on February 18, 2025, in which you sought our review of your public records request submitted to the Village of Boys Town (“Boys Town”) for certain law enforcement records. We considered your petition in accordance with the Nebraska Public Records Statutes (“NPRS”) as set forth in Neb. Rev. Stat. §§ 84-712 through 84-712.09 (2024), and our conclusions are set forth below.

FACTS

Our understanding of the facts in this matter comes from your petition to this office and the included email correspondence. Per your email sent to Village Clerk Maria Lighthall dated January 9, 2025, you sought copies of certain Boys Town ordinances and body camera video relating to a slip-and-fall incident.¹ You also requested a copy of the Boys Town Police Department’s policy for “preservation/destruction of police body cam video” (“Policy”) if the body camera video had been “recorded over,” inadvertently lost,

¹ Your petition discusses your reasons for seeking the requested records. For your information, “[t]he public records statutes apply ‘equally to all persons without regard to the purpose for which the information is sought.’ As a general rule, citizens are not required to explain why they seek public information.” *See BH Media Group, Inc. v. Frakes*, 305 Neb. 780, 801, 943 N.W.2d 231, 247 (2020). Accordingly, this office does not consider the reason or purpose for a records request when making our determinations under § 84-712.03(1)(b).

misplaced, or otherwise destroyed . . .” Based on your petition, it appears that the village ordinances were produced and that the requested body camera video had been recorded over, leaving only your request for a copy of the Policy at issue. You thereafter again requested a copy of the Policy in an email to Ms. Lighthall dated January 15, 2025.

You indicate in your petition that you “briefly reviewed a paper copy of the written [P]olicy” on January 24, 2025, but have not received a copy of the Policy as requested. You thereafter engaged in subsequent email correspondence with Anne-Marie O’Brien, counsel for Boys Town, beginning on or about February 4, 2025, regarding production of a copy of the Policy. Ms. O’Brien stated that the “Boys Town Police Department has not authorized [her] to distribute or share its video body cam retention policy.” Ms. O’Brien further represented that “the Police Department has a 90-day policy on retaining body cam videos in non-criminal matters. Since the request for video was almost a year after the incident, any body cam video that would have existed is now destroyed pursuant to the [P]olicy.” Following subsequent correspondence, Ms. O’Brien advised in an email dated February 13, 2025, that Boys Town would produce a copy of the Policy only upon receipt of a subpoena duces tecum. Based on the correspondence attached to your petition, it appears that Boys Town’s representatives did not reference the NPRS in any response to your request.

On February 26, 2025, the undersigned spoke with Ms. O’Brien regarding your records request. Ms. O’Brien stated that Boys Town had concerns with publicly disclosing the Policy without certain safeguards but did not otherwise indicate that Boys Town was relying on a statutory exception under the NPRS.

DISCUSSION

The basic rule for access to public records in Nebraska is set out in § 84-712(1). This provision generally states that “[e]xcept as otherwise expressly provided by statute,” all Nebraska residents and other interested persons have the right to examine public records in the possession of public agencies during normal agency business hours, to make memoranda and abstracts from those records, and to obtain copies of records in certain circumstances. “Public records” are defined as

[a]ll 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. Data which is a public record in its original form shall remain a public record when maintained in computer files.

Neb. Rev. Stat. § 84-712.01(1) (2024). The information available to our office demonstrates that there can be no dispute that the Policy is a “record [or] document . . . of or belonging to” Boys Town.

While the NPRS permit public bodies to withhold certain public records at the discretion of the records custodian, the custodian must cite to a statutory exception applicable to the records in question to do so. Having thoroughly reviewed this file and Nebraska law, we conclude that the Policy does not fall under any of the exceptions set forth in § 84-712.05, and we are unaware of any other provision of Nebraska law that would prohibit disclosure of the Policy or otherwise permit Boys Town to withhold it.² Consequently, we will direct Boys Town, by providing a copy of this letter to Ms. O'Brien, to produce a written copy of the Policy in accord with the requirements of the NPRS within five (5) days from the date of this disposition.

As a final matter, we will take this opportunity to remind Boys Town of its obligation to respond to public records requests in accord with the NPRS. Specifically, when denying a public records request, a public body must provide a written response containing the following information:

- (1) 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;
- (2) The name of the public official or employee responsible for the decision to deny the request; and
- (3) Notification to the requester of any administrative or judicial right of review under section 84-712.03.

See § 84-712.04(1). Boys Town must comply with these requirements alongside all other provisions of the NPRS in responding to public records requests.

² As noted above, Boys Town allowed you to briefly review a paper copy of the Policy on January 24, 2025. Given that you had already been given access to the Policy, it is unclear to our office why Boys Town would thereafter withhold a written copy of the Policy.

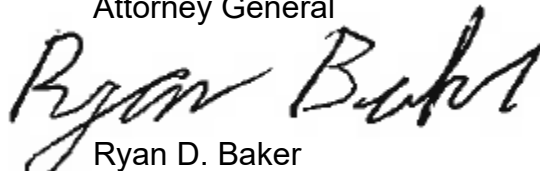
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CONCLUSION

For the reasons set forth above, we conclude that Boys Town improperly withheld the Policy and was required to disclose it under the NPRS. Therefore, a written copy of the Policy should be provided in accord with the provisions of the NPRS.

Sincerely,

MIKE HILGERS
Attorney General



Ryan D. Baker
Assistant Attorney General

c: Anne-Marie O'Brien

55-075-31