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September 30, 2025

Via email at [REDACTED]
Matthew Brunken
[REDACTED]

RE: *Public Record Matter Involving Springfield-Platteview Community Schools*
Our File No. 20251109

Dear Mr. Brunken:

This letter is in response to your public records petition received by this office on September 15, 2025. You have requested this office to review the denial of a portion of your September 9, 2025, records request by Dr. Ryan Saunders, superintendent of Springfield-Platteview Community Schools (District). On September 22, we forwarded your petition to Steve Williams, legal counsel for the District, and requested a response, which we received on September 24. We considered your petition and Mr. Williams' response under the Nebraska Public Records Statutes (NPRS), Neb. Rev. Stat. §§ 84-712 to 84-712.09 (2024). Our findings in this matter are set forth below.

RELEVANT FACTS

Your petition concerns two items in a records request you emailed to the District on September 9, 2025, as follows¹:

4. Communications involving TD (since March 1, 2025):

All communications between CE and Platteview student TD, and all communications between CE and ED (parent of TD).

¹ We substituted the names of the teacher, student and the student's parent appearing in your request with their initials.

5. Disclosures re: one-on-one contact (since March 1, 2025):

All communications regarding any voluntary disclosure of one-on-one student-teacher contact between CE and TD. (Emphasis omitted.)

Dr. Saunders responded to your request on September 11, denying you access to the communications listed above. He informed you that

communications containing personally identifiable information about a student are considered confidential under the Family Educational Rights and Privacy Act (FERPA), as well as Nebraska state law. As such, the District is not permitted to release emails or records that include student information or personal information in records regarding a student. Accordingly, the District will not be releasing the requested communications as they are exempt from disclosure under section 84-712(1) [sic]².

Dr. Saunders further informed you records responsive to item no. 5 “contain personal information regarding school personnel other than salaries and routine directory information and are exempt from disclosure under section 84-712(8) [sic]³.”

Your petition asserts the denial was improper because “[u]nder § 84-712.06, custodians must redact exempt portions and release the remainder.” You state that while “. . . FERPA protects personally identifiable information (PII), . . . it does not justify withholding entire records” and that “[r]edacted versions . . . can and should be produced.” You assert that a blanket denial “contravenes Nebraska courts’ directive that exemptions be narrowly construed in favor of disclosure.” Finally, you assert “[e]mployee communications are public records. To the extent the communications reflect district business, they are public records regardless of the platform used, subject only to narrow redaction. The District has not met its burden to show that the entirety of these records falls within a valid exemption.”

Mr. Williams informs us that under FERPA, “education records” “are (1) directly related to a student and (2) maintained by a school district or by a party acting for the school district,” citing 20 U.S.C. § 1232g(a)(4)(A). He confirms the communications at issue regarding TD are education records, i.e., “emails maintained by the school district that are directly related to the student.” Mr. Williams states that while the exception in § 84-712.05(1) provides a basis to withhold students’ personal information, Neb. Rev. Stat. § 79-2,104 (2024) is even more restrictive. This statute provides, in pertinent part:

² We believe Dr. Saunders intended to cite to the exception in subsection (1) of Neb. Rev. Stat. § 84-712.05.

³ See FN 2.

(1) Any student in any public school or his or her parents, guardians, teachers, counselors, or school administrators shall have access to the school's files or records maintained concerning such student, including the right to inspect, review, and obtain copies of such files or records. No other person shall have access to such files or records except (a) when a parent, guardian, or student of majority age provides written consent or (b) as provided in subsection (3) of this section.⁴ The contents of such files or records shall not be divulged in any manner to any unauthorized person. . . .

Mr. Williams indicates that neither the parent nor student has given written consent for you to access the emails. Thus, § 79-2,104 prohibits the District from divulging the contents of these emails in any manner.

With respect to the emails between CE and ED, Mr. Williams informs us that some of the records discuss TD, making them education records exempt from disclosure in their entirety. Other emails do not discuss TD, but contain personal information about CE, which is neither salary nor routine directory information. Therefore, the exception in § 84-712.05(8) ("Personal information in records regarding personnel of public bodies other than salaries and routine directory") provides a basis to withhold the emails. However, Mr. Williams indicates that in accordance with § 84-712.06, the District is willing to produce emails, to the extent they exist, between CE and ED that do not discuss TD and have been redacted to remove CE's personal information except routine directory information, i.e., name and email address.

DISCUSSION

Neb. Rev. Stat. § 84-712 sets out the basic rule for access to public records in Nebraska. That statute provides, in pertinent part:

Except as otherwise expressly provided by statute, all residents of this state and all other persons interested in the examination of the public records as defined in section 84-712.01 are hereby fully empowered and authorized to (a) examine such records, and make memoranda, copies using their own copying or photocopying equipment in accordance with subsection (2) of this section, and abstracts therefrom, all free of charge, during the hours the respective offices may be kept open for the ordinary transaction of business and (b) except if federal copyright law otherwise provides, obtain copies of public records in accordance with

⁴ Subsection (3)(a) allows authorized representatives of state and federal auditing officials or state educational authorities to access "student or other records which are necessary in connection with the audit and evaluation of federally supported or state-supported education programs or in connection with the enforcement of legal requirements which relate to such programs" Subsection (3)(b) provides that "[t]his section does not preclude or prohibit the disclosure of student records to any other person or entity which may be allowed to have access pursuant to" FERPA.

subsection (3) of this section during the hours the respective offices may be kept open for the ordinary transaction of business.

(Emphasis added.) “Public records” in Nebraska “include all records and documents, regardless of physical form, of or belonging to” governmental entities in the state, “[e]xcept when any other statute expressly provides that particular information or records shall not be made public.” Neb. Rev. Stat. § 84-712.01(1) (2024) (emphasis added). Thus, while access to public records is broad, it is not absolute. There is no right to access public records in those instances where the Legislature has made the records confidential or subject to withholding under Neb. Rev. Stat. § 84-712.05⁵ or § 84-712.08. “A statute qualifies as an ‘other statute’ under § 84-712(1) when the plain language of a statute makes it clear that a record, or portions thereof, is exempt from disclosure in response to a public records request.” *State ex rel. BH Media Group, Inc. v. Frakes*, 305 Neb. 780, 794, 943 N.W.2d 231, 243-44 (2020).

“Statutory language must be given its plain and ordinary meaning, and an appellate court will not resort to interpretation to ascertain the meaning of statutory words which are plain, direct, and unambiguous.” *Nebraska Journalism Trust v. Nebraska Dept. of Env’t and Energy*, 316 Neb. 174, 190-91, 3 N.W.3d 361, 373 (2024). In construing a statute, a court must determine and give effect to the purpose and intent of the Legislature as ascertained from the entire language of the statute considered in its plain, ordinary, and popular sense.” *Aksamit Resource Management LLC v. Nebraska Pub. Power Dist.*, 299 Neb. 114, 123, 907 N.W.2d 301, 308 (2018). The plain and ordinary meaning of § 79-2,104(1) gives students, parents, guardians, and school officials access to student records. The provision expressly prohibits a school district from divulging student records to any unauthorized person except upon written consent by a parent, guardian or student of majority age. Under § 79-2,104(3) certain officials may access records when necessary for auditing or evaluating federal or state educational programs or enforcing legal requirements of such programs.

Section 79-2,104 is an “other statute” that restricts access to student records. According to Mr. Williams, TD and ED have not given their consent for you to access TD’s records. There is also nothing in your petition to suggest you are eligible to access the records under § 79-2,104(3). Consequently, since communications discussing TD fall squarely within the parameters of § 79-2,104, and no exception applies, those records must be kept confidential.

In contrast, responsive records that do not discuss TD are public records that may be disclosed at the discretion of the District. Mr. Williams represented to this office that certain emails contain CE’s personal information, but the District would be willing to produce those emails with appropriate redactions. Accordingly, we will request that Mr.

⁵ Section 84-712.05 currently contains twenty-nine categories of records that may be withheld at the discretion of the records custodian “unless publicly disclosed in an open court, open administrative proceeding, or open meeting or disclosed by a public entity pursuant to its duties”

Matthew Brunken
September 30, 2025
Page 5

Williams make redacted emails available to you no later than the close of business on October 10, 2025.

CONCLUSION

Section 79-2,104 is an "other statute" that prohibits the District from divulging the contents of student records unless an exception applies. Since no exception applies in the present case, you have no right to access the requested emails involving TD. As to any responsive records that do not involve TD, those records will be provided to you, in redacted form, no later than close of business on October 10, 2025.

If you disagree with the analysis set out above, you may wish to contact your private attorney to determine what additional remedies, if any, are available to you under the NPRS.

Sincerely,

MIKE HILGERS
Attorney General



Leslie S. Donley
Assistant Attorney General

c: Steve Williams (via email only)

49-3946-31