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Office of the Attorney General

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November 13, 2025

Via email at [REDACTED]
Louie M. Ligouri

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

RE: *Public Record Matter Involving Falls City Public Schools*
Our File No. 20251138

Dear Mr. Ligouri:

This letter is in response to your public records petition received by this office on October 29, 2025. You have requested this office to review the denial of your October 3, 2025, records request by Dr. Andrew Offner, superintendent of Falls City Public Schools (District). On October 31, we forwarded your petition to Justin Knight, legal counsel for the District, and requested a response, which we received on November 7. We also spoke to Mr. Knight about your petition earlier today. We considered your petition and Mr. Knight's 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 public records request to the District generally sought the following:

[P]ublic records maintained by Falls City Public Schools, School District Number 56 of Richardson County, Nebraska concerning or referencing an incident involving an injury to a middle school student that occurred on May 5, 2025, at approximately 12:15 p.m. at and within the Falls City Middle School at 1415 Morton Street, Falls City, Nebraska, whereby the middle school student sustained a traumatic crush type injury to the student's right index finger.

Your request also included nine specific categories of records, set out below:

1. Any and all written reports, incident reports, or accident reports generated by the School District, school staff, or administrators regarding the above and foregoing incident of May 5, 2025.
2. Any internal investigation documents, findings, or summaries related to the above and foregoing incident of May 5, 2025.
3. Policies, handbooks, or written rules of the School District in effect at the time of the May 5, 2025, incident pertaining to:
 - a. Student supervision during the school day and within the school building;
 - b. Student conduct and behavioral expectations; and,
 - c. Staff responsibility for monitoring hallways, classrooms, and common areas.
4. Communications (including emails, memoranda, or letters) between the School District staff, administrators, or the school board concerning the subject incident of May 5, 2025, including the School District's response.
5. Records reflecting the School District's actions, responses, or decisions following the subject incident of May 5, 2025, including any determinations, outcomes, or disciplinary measures related to students or staff.
6. Any and all photographs, video and camera recordings that the School District took, obtained or has in its possession depicting or otherwise pertaining to the subject incident of May 5, 2025.
7. All premises inspection reports or other documents relating to the location or area where the incident of May 5, 2025, occurred, including any such reports and documentation of any mechanism connected to the subject incident.
8. Any and all records of memorandum, correspondence, minutes from meetings, reports, notes, notices and written materials that relate to, involve or otherwise pertain to the subject incident of May 5, 2025.
9. Records of any and all safety reviews, corrective measures, or policy changes considered or implemented by the district as a result of the subject incident of May 5, 2025.

Dr. Offner timely responded to your request on October 10, providing you a link to the District's website in response to No. 3. As to the other items requested, Dr. Offner informed you that each item in your request

seeks student records, which are confidential by state law (including Neb. Rev. Stat. § 79-2,104) and federal law (including FERPA¹). As a result, pursuant to state and federal law, as well as Neb. Rev. Stat. § 84-712.05(1), the contents of any student files or records are confidential by law and may not be shared via a public records request.

You state in your petition that § 84-712.05(1) does not apply since you are not seeking personal information regarding a student. Citing Neb. Rev. Stat. § 84-712.06,² you assert the District should “disclose the nonexempt portions of the records” and that “[w]ithholding entire records because some of the material may be exempt is improper.” You further assert that various documents, e.g., “investigative records, inspection reports, policies, staff communications,” could “be provided without student personally identifiable information,” and you reiterate you are not seeking personal information. Lastly, you state:

The School District's reliance upon Neb. Rev. Stat. § 79-2,104, Neb. Rev. Stat. § 84-712.05(1), and Federal law, including FERPA is misplaced. The foregoing statutes and Federal law simply do not authorize blanket nondisclosure and render Neb. Rev. Stat. § 84-712 through § 84-712.09 wholly meaningless as to a School District.

In response to your petition, Mr. Knight informs us Neb. Rev. Stat. § 84-712(3)(a) does not require a public body to provide copies of records when those records are available on the public body's website. This statute states, in pertinent part:

[Section 84-712] shall not be construed to require a custodian to copy any public record that is available to the requester on the custodian's website on the Internet. The custodian of the public record is required to provide the location of the public record on the Internet to the requester. If the requester does not have reasonable access to the Internet due to lack of computer, lack of Internet availability, or inability to use a computer or the Internet, the custodian shall produce copies for the requester as provided in this section.

He states that Dr. Offner informed you in his October 10 letter that you were free to review District Policies or Handbooks on the District's website at <https://www.fctigers.org/>. Accordingly, Mr. Knight asserts the District fulfilled this portion of your request by providing a link to the District's website.

As to the remaining items in your request, Mr. Knight confirmed that responsive records included email communications between staff and the student's parents, and staff, parents and the school nurse; witness statements; an incident summary; and a collection of emails pertaining to progress updates, medical recovery and future steps to accommodate the student. However, as to their disclosure, Mr. Knight states that “[b]oth state and federal law impose strict confidentiality requirements regarding student information.” Under FERPA, schools are prohibited from releasing “education records” to third parties without parental consent, which are “defined as any record that is (1) directly related to a student and (2) maintained by the school or a party acting for the school. 20 U.S.C. § 1232g(a)(4)(A).” In addition, the exception to disclosure in Neb. Rev. Stat. § 84-

² This statute requires that “[a]ny reasonably segregable public portion of a record shall be provided to the public as a public record upon request after deletion of the portions which may be withheld.”

712.05(1) “expressly incorporate[s] FERPA’s protections, permitting schools to withhold student records.”

Mr. Knight further states that, beyond FERPA, Neb. Rev. Stat. § 79-2,104 “imposes an even broader restriction.” This statute prohibits access to “the school’s files or records maintained concerning such student” except to the student, parent or authorized school official and expressly prohibits disclosure to any unauthorized person. As further support, he points to a recent disposition letter in which we determined that communications discussing a student fell within the parameters of § 79-2,104, and must be kept confidential by the school district.³

Finally, Mr. Knight represents that

[i]n this matter, every responsive record that [the District] maintains (and has withheld) concerns the student involved in the [May 5 incident]. There are no other records that exist. Mr. Ligouri has not obtained any parental consent of the student involved or provided any other lawful authority under § 79-2,104 that would entitle him to inspect or review the responsive records that concern the student involved.

All records responsive to Mr. Ligouri’s request either (1) directly relate to or (2) concern the student involved in the [May 5 incident]. [The District], therefore, properly withheld those records consistent with state and federal law. No additional responsive records exist.

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

³ See File No. 20251109, *Public Record Matter Involving Springfield-Platteview Community Schools [Brunken]* (September 30, 2025), available at <https://ago.nebraska.gov/disposition-letters>.

(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. § 84-712.05⁴ 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).

Neb. Rev. Stat. § 79-2,104 (2024), cited by Mr. Knight as the most restrictive statute governing student records, states in pertinent part:

(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. The contents of such files or records shall not be divulged in any manner to any unauthorized person.

“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. As noted above, neither the student nor the student’s parents have given you permission to

⁴ 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”

access the student's records. There is also nothing in your petition to suggest you are eligible to access the records under § 79-2,104(3). We also reject your claim that you are *not* seeking the student's personally identifiable information since that is precisely what you requested, i.e.: Records concerning or referencing a May 5, 2025, incident at Falls City Middle School involving an injury to a student. Consequently, we find that the records you have requested fall squarely within the parameters of § 79-2,104, and must be kept confidential by the District.

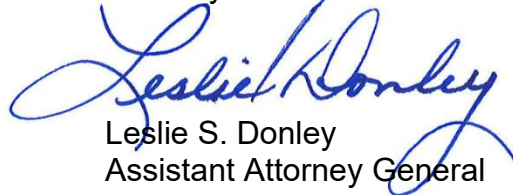
CONCLUSION

Section 79-2,104 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 records. In addition, the District met its obligation under the NPRS by providing you a link to the District's website to access its policies and handbooks. Since you have not been denied access to public records, no further action by this office is necessary and we are closing this file.

If you disagree with the analysis set out above, you may wish to consider the other remedies available to you under the NPRS.

Sincerely,

MIKE HILGERS
Attorney General



Leslie S. Donley
Assistant Attorney General

c: Justin Knight (via email only)