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February 9, 2026

Via email: [REDACTED]

Aaron Jones
[REDACTED]

RE: *Public Records Matter Involving the Nebraska Department of Insurance*
Our File No. 20261008

Dear Mr. Jones:

This letter is in response to your petition received by this office on January 23, 2026, in which you sought our review of your public records request submitted to the Nebraska Department of Insurance ("Department") on January 13, 2026, regarding records relating to a complaint you filed with the Department. We have reviewed your petition in accordance with the Nebraska Public Records Statutes ("NPRS"), 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 is based on your petition to our office, the materials attached thereto, and additional information provided to our office by Department counsel, Martin Swanson. On January 13, 2026, you requested records relating to "Complaint No. 38740," which "involv[ed] the United Services Automobile Association [(USAA)] and policyholder Aaron Jones." Specifically, you state that in a letter provided to the Department by USAA, "USAA represented that it provided attachments" alongside the letter, including a "Timeline," "Claim Log/Notes," and "Correspondence." Per your request, you sought these attachments.

On January 15, 2026, the Department issued its response denying your records request via an email authored by Mr. Swanson. Mr. Swanson stated in pertinent part:

The Department of Insurance will not provide Consumer Affairs Division complaint files in response to a public records request based on Neb. Rev. Stat. § 84-712.05(5) Consumer Affairs Division investigations are part of the Department's efforts to enforce the Insurance Code pursuant to Neb. Rev. Stat. § 44-101.01.

Following our office's receipt of your petition, we requested additional information from the Department regarding your request. Mr. Swanson maintained that the records in question concerned the Department's investigation into whether the procedural requirements of Chapter 44 of the Nebraska Revised Statutes were complied with in relation to Complaint No. 38740. Per Mr. Swanson, the Department's position remained that the requested records were investigatory and could be withheld 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). Based on this broad definition, there is no question that the requested documents are public records contemplated by the NPRS.

However, while the NPRS broadly authorize public access to public records, they are not absolute. Section 84-712.05 lists several categories of public records that may be withheld at the discretion of the records custodian. The burden of showing that a statutory exception applies to disclosure of particular records rests upon the custodian of those records. See *Evertson v. City of Kimball*, 278 Neb. 1, 7-8, 767 N.W.2d 751, 758-59 (2009) [*Evertson*]. Consequently, it is the Department's burden to show that the investigatory exception applies. Pertinently, § 84-712.05(5) provides:

The following records, unless publicly disclosed in an open court, open administrative proceeding, or open meeting or disclosed by a public entity pursuant to its duties, may be withheld from the public by the lawful custodian of the records:

. . .

(5) Records developed or received by law enforcement agencies and other public bodies charged with duties of investigation or examination of persons, institutions, or businesses, when the records constitute a part of the examination, investigation, intelligence information, complaints or inquiries from residents of this state or other interested persons, informant identification, or strategic or tactical information used in law enforcement training, except that this subdivision shall not apply to records so developed or received:

- (a) Relating to the presence of and amount or concentration of alcohol or drugs in any body fluid of any person; or
- (b) Relating to the cause of or circumstances surrounding the death of an employee arising from or related to his or her employment

Mr. Swanson represents that the Department is a public body charged with duties of investigation and examination of persons, institutions, or businesses pursuant to Chapter 44 of the Nebraska Revised Statutes. In particular, Neb. Rev. Stat. § 44-101.01 (2021) charges the Department with the “general supervision, control, and regulation of insurance companies, associations, and societies and the business of insurance in Nebraska” Section 44-101.01 further charges the Department, via its director, with “the power and duty to enforce and execute all the insurance laws of this state” Based on our review of statutory authority, the Department constitutes a “public bod[y] charged with duties of investigation or examination of persons, institutions, or businesses” under § 84-712.05(5).

Turning next to the question of whether the records sought constitute investigatory records able to be withheld pursuant to § 84-712.05(5), the Nebraska Supreme Court has said:

A public record is an investigatory record if (1) the activity giving rise to the document sought is related to the duty of investigation or examination with which the public body is charged and (2) the relationship between the investigation or examination and that public body’s duty to investigate or examine supports a colorable claim of rationality.

Jacob v. Nebraska Bd. of Parole, 313 Neb. 109, 125, 982 N.W.2d 815, 829 (2022). As discussed above, the Department received the requested records from USAA during its resolution of Complaint No. 38740. We conclude that the Nebraska Supreme Court’s test is satisfied in this matter, as the receipt of these records related to the Department’s duties to supervise the insurance industry in Nebraska and enforce Chapter 44 of the Nebraska Revised Statutes in response to Complaint No. 38740. Consequently, these records may be lawfully withheld under the NPRS.

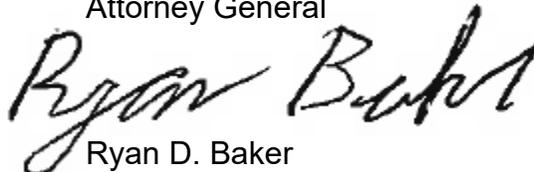
You assert in your petition that the Department improperly claimed a “blanket exemption[]” in connection with its withholding of the requested records and that your status as the complainant in Complaint No. 38740 requires the disclosure of the requested records. It is true that § 84-712.06 provides that “[a]ny reasonable segregable 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.” See also *State ex rel. BH Media Group v. Frakes*, 305 Neb. 780, 805-07, 943 N.W.2d 231, 250-51 (2020). However, given the facts of this matter, we conclude that the requested records are neither required to be segregated nor actually segregable. The records requested in this matter were received in their entirety by the Department as part of its investigation into Complaint No. 38740. Moreover, contrary to your assertion, the exception set forth in § 84-712.05(5) is not limited to “internal agency deliberations or privileged materials.” That the requested records may be “factual documents and correspondence submitted by USAA” is immaterial. As discussed above, the Department has carried its burden to show the statutory and case law requirements in this matter are satisfied and apply to the requested records in their entirety. Similarly, Nebraska law does not provide additional rights to a requester simply because he or she was the complainant or otherwise connected to the investigation in question.

CONCLUSION

For the reasons set forth above, we conclude that the Department did not unlawfully deny you access to the requested public records. As a result, no further action by this office is warranted, and we are closing this file. If you disagree with our findings set out in this letter, you may wish to consult with an attorney to determine what, if any, additional remedies may be available to you under the NPRS.

Sincerely,

MIKE HILGERS
Attorney General



Ryan D. Baker
Assistant Attorney General

c: Martin Swanson (via email only)