



STATE OF NEBRASKA  
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March 30, 2026

Via email at [REDACTED]  
Jacob Franklin

RE: *Public Records Matter Involving the Nebraska Judicial Branch*  
File No. 20261025

Dear Mr. Franklin:

This letter is in response to your public records petition received by this office on March 13, 2026, in which you requested our assistance in obtaining certain public records from the Nebraska Judicial Branch (NJB). We forwarded your petition to NJB Staff Attorney Erika Schafer upon receipt, and discussed it with her on March 24. Although under no legal obligation to do so,<sup>1</sup> Ms. Schafer provided this office the responsive records withheld by the NJB. We considered this matter in accordance with the provisions of 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**

On or about February 18, 2026, the NJB received a complaint about you regarding certain online conduct. Believing you were employed by the NJB as a probation officer, NJB staff conducted an investigation. Once the investigation revealed you were no longer employed by the NJB, NJB employee Jacey Rader<sup>2</sup> contacted you by email on February 27 and requested that “you remove any reference to employment, affiliation, or representation of the [NJB] or Nebraska Probation from your Facebook profile and any

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<sup>1</sup> *In camera* reviews of records that are the subject of mandamus actions may be conducted at the discretion of the courts. Neb. Rev. Stat. § 84-712.03(2).

<sup>2</sup> Ms. Rader serves as an Assistant Deputy Administrator in the Administrative Office of the Courts and Probation.

other public platforms promptly.” You emailed Ms. Rader twenty minutes later informing her that your profile had been updated.

Approximately an hour later, you emailed a public records request to Ms. Rader requesting the following:

[C]opies of public records that led to your email today to me of “Concerning Online behavior” on Facebook. I am specifically requesting you to email me the emails, phone record logs, texts, website submissions, or any other communications from the individual or individuals who made the complaint against me thinking that I still worked for Nebraska Probation.

State Court Administrator Corey R. Steel responded to your request on March 2, 2026. Mr. Steel provided you a copy of the Facebook profile page at issue. Other responsive records, i.e., emails and texts, were withheld under the exception in Neb. Rev. Stat. 84-712.05(5). Mr. Steel further indicated there were no responsive phone record logs or website submissions.

You are challenging Mr. Steel’s withholding on several grounds, including his purported failure to explain: (1) How the withheld records fell within the exception; (2) why redacted records were not provided; and (3) “whether any segregability analysis was conducted.” You assert “[t]he circumstances surrounding the complaint further underscore the public interest in disclosure” and that disclosing the records “would allow for a clearer understanding of whether the complaint was submitted in good faith or whether the complaint process was used for retaliatory or improper purposes.”

As to the withholding of records under § 84-712.05(5), you argue the exception does not apply because no investigation occurred. You assert the complaint was “handled through a brief administrative communication” resulting in a request for you to “update outdated employment information on a social media profile.” You indicate you resolved the matter in approximately twenty minutes when you corrected your profile and notified Ms. Rader. You state, in this respect, that “[t]here is no indication that the agency opened an investigation, conducted fact-finding, or created an investigative file.” Finally, you assert the requested records more likely consist of “administrative complaint communications rather than investigatory materials.”

## **DISCUSSION**

Neb. Rev. Stat. § 84-712(1) allows Nebraska residents and other interested persons the right to examine public records in the possession of public agencies during normal business hours, to make memoranda and abstracts from those records, and to obtain copies of records in certain circumstances. Under this statute, it was intended that all public records of the state, its counties, and its other political subdivisions should be open to inspection, except where the Legislature has otherwise provided that the record

shall be confidential. Judiciary Committee Statement on LB 505, 72nd Nebraska Legislature (April 5, 1961). “The overall purpose of the public records statutes is to empower and authorize interested persons to examine public records.” *Nebraska Journalism Trust v. Nebraska Dept. of Env’t and Energy*, 316 Neb. 174, 187, 3 N.W.3d 361, 371 (2024).

However, access to public records is not absolute. *Orr v. Knowles*, 215 Neb. 49, 337 N.W.2d 699 (1983). The NPRS allow access “[e]xcept as otherwise expressly provided by statute” (§ 84-712(1)) or “[e]xcept when any other statute expressly provides that particular information or records shall not be made public” (§ 84-712.01(1)). Consequently, you have no right to access public records in those instances where the Legislature has made the records expressly confidential or subject to withholding under § 84-712.05 or § 84-712.08. The burden of showing that a statutory exception applies to disclosure of particular records rests upon the custodian of those records. *Aksamit Resource Management LLC v. Nebraska Pub. Power Dist.*, 299 Neb. 114, 123, 907 N.W.2d 301, 308 (2018) [“Aksamit”]; *State ex rel. Nebraska Health Care Ass’n v. Dept. of Health and Human Services Finance and Support*, 255 Neb. 784, 790, 587 N.W.2d 100, 105 (1998).

The exception in § 84-712.05(5) gives record custodians the discretion to withhold the following records so long as those records have not been “publicly disclosed in an open court, open administrative proceeding, or open meeting or disclosed by a public entity pursuant to its duties”:

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 . . . .<sup>3</sup>

In *Evertson v. The City of Kimball*, 278 Neb. 1, 767 N.W.2d 751 (2009) [“Evertson”], the Nebraska Supreme Court considered whether § 84-712.05(5) applied to records developed during an investigation into alleged racial profiling by city police officers. Relying on cases construing the law enforcement exemption (no. 7) in the Freedom of Information Act, 5 U.S.C. § 552, the court found that exempting all internal auditing or monitoring of employees “from disclosure would permit the exemption to defeat the purpose of the public records laws—‘to provide public access to information concerning the Government’s own activities.’” *Id.* at 15, 767 N.W.2d at 763. For the exception to apply, “[t]he government must therefore show that the agency compiled the investigatory

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<sup>3</sup> Section 84-712.05(5) carves out exceptions for (1) records relating to the presence of and amount or concentration of alcohol or drugs in any individual’s body fluids; and (2) records concerning the death of a public employee arising from the deceased’s employment when requested by family members once an investigation is concluded.

records for adjudicatory or enforcement purposes and not general agency monitoring of its programs and employees.” *Id.* Acknowledging that a broad reading of § 84-712.05(5) would be inconsistent with the Legislature’s “strong public policy for disclosure,”<sup>4</sup> the court held that the exception “should only apply to an investigation of a public body’s employees if the investigation focuses on specifically alleged illegal acts.” *Id.* at 16, 767 N.W.2d at 764.

Upon review of the records we received, we find the withholding under § 84-712.05(5) appropriate for a number of reasons. Express language in the exception allows public bodies charged with duties of investigation or examination of persons, institutions, or businesses, other than law enforcement agencies, to withhold complaints or inquiries from Nebraska residents or other interested persons. The complaint received by the NJB alleged potentially unlawful conduct by what appeared to be, according to your Facebook profile, an NJB employee. Responsive records, in the form of emails and text messages, were developed by NJB staff as they investigated the matter. Under the *Evertson* decision, these records are considered investigatory for purposes of applying § 84-712.05(5). The fact that the NJB—Administrative Office of the Courts and Probation is not a law enforcement agency *per se* does not preclude its ability to investigate the complaint it received and follow up with you regarding your profile. Moreover, there is no requirement that the NJB open an “investigative file” in order to conduct an investigation. Ultimately, your assertions that there was no investigation or that the records consist merely of “administrative complaint communications” are without merit.

With respect to redactions, Neb. Rev. Stat. § 84-712.06 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.” We understand that NJB staff considered whether redactions would be appropriate under these circumstances and determined they would not. However, neither § 84-712.06 nor any other provision in the NPRS requires public bodies to explain to the requester whether redacted portions of requested records could be disclosed or to conduct a “segregability analysis.”

Finally, we considered your arguments that the public interest would be served with the disclosure of NJB’s investigatory records, which would allow you to assess whether the complaint was made in good faith or for retaliatory or improper purposes. Your outdated employment profile was the reason the NJB became involved in this matter and was required to investigate the complaint. Inquiring into the basis for the complaint does not implicate the “public interest” and we will decline to order disclosure when the public body has provided an appropriate basis to withhold the records at issue.

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<sup>4</sup> See *Aksamit*, 299 Neb. at 122, 907 N.W.2d at 308.

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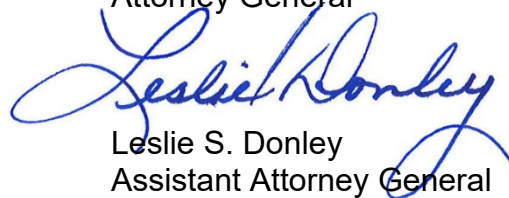
## CONCLUSION

Based on the foregoing, the NJB may continue to rely on the exception in § 84-712.05(5) to deny you access to the emails and text messages constituting the investigative materials in this matter. Since we believe the application of the exception is appropriate under the circumstances presented, no further action is warranted and we are closing our file.

If you disagree with our analysis of this matter, 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: Erika Schafer (via email only)

49-4113-31