



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

LESLIE S. DONLEY
ASSISTANT ATTORNEY GENERAL

June 1, 2026

Via email to [REDACTED]
Robert St. Marie

RE: *Public Records Matter Involving Sidney Public Schools*
Our File No. 20261040

Dear Mr. St. Marie:

This letter is in response to your public records petition originally sent to this office on May 4, 2026, which we received on May 5. At our request, you supplemented your petition with the documentation necessary for our review on May 15. Your petition seeks the Attorney General's review of the handling of three public records requests by Sidney Public Schools (District). The undersigned contacted District legal counsel Coady H. Pruett upon receipt of your petition and requested a response, which we received on May 27. We considered your petition and Mr. Pruett's response on behalf of the District in accordance with 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

As noted above, your petition concerns three public records requests, which we summarize below:

April 2, 2026 Request

On Thursday, April 2 at 11:08 p.m., you emailed Jennifer Holly, an administrative assistant employed by the District, requesting "the hire date, starting salary, current salary, job description, credentials, training provided or paid for (including dates) by Sidney Public Schools" for two District employees. You also requested

the written hiring and retention policies, practices and procedures (including all relevant public records) for the entirety of SPS in all departments and positions

both staff and faculty if such documents exist. If any of the said policies and procedures or other requested public records do not in fact exist please create a record documenting the non-existence of such policies, procedures, practices or documents and provide it with this request.

District Superintendent Andrew Farber responded to your request on April 13, 2026, providing you responsive information regarding the individuals listed in your request and links to access credentialing information on the Nebraska Department of Education's website and the District's policies. He stated that "[a]ll other responsive documents in the school district's possession, custody or control are included with this letter." Citing guidance from this office, Mr. Farber declined to create any additional records to satisfy your request.

April 13, 2026 Request

You indicate in your petition you made a verbal request at a school board meeting held on April 13 that went unanswered. However, in an email sent to the undersigned on May 14, you indicate you made "a verbal request for a document pertaining to the Emergency exemption . . . on a contract that did not go out to public bid. At a special board meeting on 3/30/26[.] There has been no response."¹

April 27, 2026 Request

On Monday, April 27 at 7:16 p.m., you emailed Mr. Farber, stating: "Please provide the hire date and starting salary for the following Teachers." Eight individuals were listed. You "clarified" your request at 7:37 p.m., asking for "certificate numbers" and "[l]egal names."

Mr. Farber responded to this request on May 4, informing you that Neb. Rev. Stat. § 79-8,109 prohibits the school district "from disclosing the contents of any full-time employee's personnel file without that employee's consent." He also pointed out that you did not request public records, but "simply 'ask[ed] for information' on staff."

YOUR PETITION

Your petition alleges that Mr. Farber:

[H]as a 3rd time failed to respond to an open records request within the 4 day requirement. First took 7 days 2nd and 3rd have gone unanswered.

¹ This email raised concerns you have with the District with respect to contracts, finances and hiring. However, those matters are outside of the scope of our review under Neb. Rev. Stat. § 84-712.03(1)(b) and will not be addressed.

4/2/26 written request via email - answered on 4/13/26 -7 bus days.
4/13/26 verbal request in open board meeting- unanswered
4/27/26 written request via email – unanswered

THE DISTRICT'S RESPONSE

In his response to this office, Mr. Pruett refutes your claim that Mr. Farber's response to your April 2 request was untimely. He states you sent your request after business hours on April 2, and the school district was closed on April 3 and 6. Your request was subsequently received by the District on April 7. Neb. Rev. Stat. § 84-712(4) requires record custodians to respond to written requests no later than four business after actual receipt. Four business days after April 7 is April 13. Thus, the response was timely.

As to your second request, Mr. Pruett states that "the school district's obligation to respond to a public records request is triggered only upon 'receipt of a **written request** for access to or copies of a public record,'" citing Neb. Rev. Stat. § 84-712(4) (emphasis in original). He states your verbal request at an open meeting triggered no obligation on the part of the school district to respond or provides any basis to support your petition.

With respect to your April 27 request, Mr. Pruett cites to opinions of the Attorney General in which we determined that the NPRS impose no requirement on public bodies to "answer questions or to create documents which do not otherwise exist." Op. Att'y Gen. No. 94035 (May 11, 1994); Op. Att'y Gen. No. 87104 (October 27, 1987). Mr. Pruett asserts that, consistent with this guidance, the school district had no obligation to disclose the information you requested.

Mr. Pruett further points out "the school district is sensitive to the confidentiality obligations governing the contents of full-time employee personnel files under Neb. Rev. Stat. § 79-8,109,² particularly in the absence of any written request for public records." (Emphasis omitted.) He states that Mr. Farber emailed you on May 4 to address your April 27 email and "clarify the basis for the school district's decision to withhold the information requested." He states that to the school district's knowledge, you have not followed up with a written request which identifies the specific records you seek.

² This statute provides:

Any teacher, administrator, or full-time employee of any public school district shall, upon his or her request, have access to his or her personnel file maintained by the district and shall have the right to attach a written response to any item in such file. Such teacher, administrator, or employee may in writing authorize any other person to have access to such file, which authorization shall be honored by the district. Such access and right to attach a written response shall not be granted with respect to any letters of recommendation solicited by the employer which appear in the personnel file. No other person except school officials while engaged in their professional duties shall be granted access to such file, and the contents thereof shall not be divulged in any manner to any unauthorized person.

Finally, Mr. Pruettt asserts that the school district did not violate the NPRS because “[t]he school district timely responded to Mr. St. Marie’s only written request for public records. Mr. St. Marie’s other so-called ‘requests’ were a verbal request and a request for information (rather than records), neither of which require a response under the NPRS.” (Emphasis omitted.)

DISCUSSION

The NPRS allow Nebraska residents and other interested persons 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. Under the NPRS, every record “of or belonging to” a public body is a public record which individuals may obtain a copy of unless the custodian of the record can point to a specific statute which allows the record to be kept confidential. However, there is no absolute right to access public records in those instances where records are exempt from disclosure by statute. This office has also consistently taken the position that the NPRS do not require public officials to answer questions or to create documents which do not otherwise exist. Op. Att’y Gen. No. 94092 (November 22, 1994); Op. Att’y Gen. No. 94035 (May 11, 1994); Op. Att’y Gen. No. 87104 (October 27, 1987). Instead, those statutes focus on access to and obtaining copies of specific records.

Neb. Rev. Stat. § 84-712(4) (2024) sets out the basic procedure to obtain public records. This statute provides that

[u]pon receipt of a written request for access to or copies of a public record, the custodian of such record shall provide to the requester as soon as is practicable and without delay, but not more than four business days after actual receipt of the request, an estimate of the expected cost of the copies and either (a) access to or, if copying equipment is reasonably available, copies of the public record, (b) if there is a legal basis for denial of access or copies, a written denial of the request together with the information specified in section 84-712.04, or (c) if the entire request cannot with reasonable good faith efforts be fulfilled within four business days after actual receipt of the request due to the significant difficulty or the extensiveness of the request, a written explanation, including the earliest practicable date for fulfilling the request, an estimate of the expected cost of any copies, and an opportunity for the requester to modify or prioritize the items within the request. The requester shall have ten business days to review the estimated costs, including any special service charge, and request the custodian to fulfill the original request, negotiate with the custodian to narrow or simplify the request, or withdraw the request. If the requester does not respond to the custodian within ten business days, the custodian shall not proceed to fulfill the request. The four business days shall be computed by excluding the day the request is received,

after which the designated period of time begins to run. Business day does not include a Saturday, a Sunday, or a day during which the offices of the custodian of the public records are closed. (Emphasis added.)

As you can see, § 84-712(4) requires the record custodian to respond to the requester no more than four business days after actual receipt of a written request. As noted above, you emailed your request after business hours on April 2. The District was closed on Friday, April 3 and Monday, April 6. Weekend days (April 4-5) are not business days and are not counted. Actual receipt of your public records request was Tuesday, April 7. You begin counting the day *after* actual receipt (April 8). Day four was April 13. Weekend days (April 11-12) are not business days and are not counted. Accordingly, so long as the response was emailed or postmarked on April 13, the response was timely.

The statute also requires the requester to submit his request in writing. Public bodies have no legal obligation to respond to verbal requests. The District's failure to respond to your verbal request does not constitute a violation of the NPRS.

Finally, as Mr. Pruett correctly points out, it is the longstanding position of this office that public bodies are not required to answer questions or create records when responding to a purported request under § 84-712. We agree with the District that your April 27 request did not request records *per se*. Rather, you requested specific information (i.e., hire dates, starting salaries, certificate numbers, legal names) for eight District teachers. Since you failed to submit a valid request, the District was under no obligation to provide you this information. However, you are not precluded from submitting a written request that sets out the specific records you wish to obtain.

CONCLUSION


For the reasons set forth above, we conclude the District's handling of your requests was conducted in accordance with the NPRS and no violations occurred under those statutes. Since no further action by this office is warranted, we are closing this file. If you disagree with our findings set out in this letter, you may wish to consult with an

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attorney to determine what, if any, additional remedies may be available to you under the NPRS.

Sincerely,

MIKE HILGERS
Attorney General



Leslie S. Donley
Assistant Attorney General

c: Coady H. Pruett (via email only)

49-4167-31