



STATE OF NEBRASKA  
**Office of the Attorney General**

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**DOUGLAS J. PETERSON**  
ATTORNEY GENERAL

**LESLIE S. DONLEY**  
ASSISTANT ATTORNEY GENERAL

July 20, 2017

Via email at [REDACTED]  
Lisa Hermsmeier

RE: *File No. 17-R-134; Lewiston Consolidated Schools; Lisa Hermsmeier; Petitioner*

Dear Ms. Hermsmeier:

This letter is in response to your email correspondence sent to our office on July 11, 2017, in which you sought our assistance in obtaining copies of certain meeting minutes of the Lewiston Consolidated School Board. When we receive petitions of this nature, our normal practice is to contact the entity involved and advise it of the opportunity to provide a response to this office. In the present case, we contacted the school district's superintendent, Rick Kentfield, and advised him accordingly. On July 17, 2017, Mr. Kentfield emailed copies of the requested minutes to you and a member of our staff. We have construed your correspondence to be a petition for review under Neb. Rev. Stat. § 84-712.03 of the Nebraska Public Records Statutes, Neb. Rev. Stat. §§ 84-712 through 84-712.09 (2014, Cum. Supp. 2016) ("NPRS"). Our findings in this matter are set forth below.

### **RELEVANT FACTS**

On June 19, 2017, you emailed Mr. Kentfield and inquired where you could get the last two years of board minutes or, alternatively, whether somebody could email the minutes to you. You indicate in your email that you had previously asked "Linda" for the minutes, but received no response. Mr. Kentfield replied later that day, responding as follows:

Linda did mention to me awhile back you wanted some past board meeting minutes. I told her I would take care of it. All board meeting minutes are published in the Pawnee Republican and we started posting minutes of meeting [*sic*] on the school district's web site in September of 2016. If you need minutes prior to September 2016 you will need to let me know why and what months because that will take me some time to gather.

You clarified your request by email on June 20, 2017, requesting minutes from May 2015 to August 2016. You indicate in your petition that you received no further response from Mr. Kentfield.

## DISCUSSION

Generally speaking, the Nebraska Public Records Statutes allow interested persons in Nebraska the right to examine public records in the possession of public agencies during normal agency business hours, to make memoranda and abstracts from those public records, and to obtain copies of public records in certain circumstances. A public body is not required, however, to create documents that do not otherwise exist, or to answer questions made to the public body under the guise of a public records request. In addition, Neb. Rev. Stat. § 84-1413(4) of the Nebraska Open Meetings Act, Neb. Rev. Stat. §§ 84-1407 to 84-1414 (2014, Cum. Supp. 2016), expressly provides that “[t]he minutes of all meetings . . . shall be public records and open to public inspection during normal business hours.”

Since you have now received the records at issue, there is no reason to continue our investigation, and we are closing the file. However, we will strongly suggest to Mr. Kentfield, by sending him a copy of this letter, that, in the future, a *timely response* must follow any request for public records.<sup>1</sup> Further, any response must fully comport with the requirements set out in Neb. Rev. Stat. § 84-712(4). And, in the event access to particular records is denied, the school district must include all of the components set out in Neb. Rev. Stat. § 84-712.04 in its denial letter. Finally, we would advise Mr. Kentfield that Neb. Rev. Stat. § 84-712 of the Nebraska Public Records Statutes does not require any person

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<sup>1</sup> Neb. Rev. Stat. § 84-712(4) provides, in pertinent part:

Upon 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.

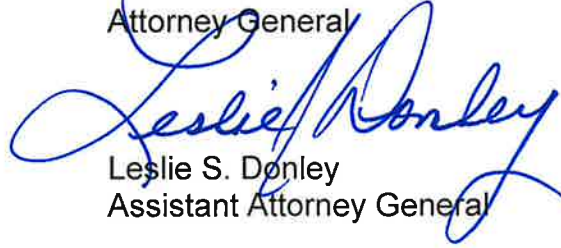
(Emphasis added.)

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seeking access to public records to provide the reason for his or her request. See *State ex rel. Sileven v. Spire*, 243 Neb. 451, 457, 500 N.W.2d 179, 183 (1993) (“[Section] 84-712 . . . applies equally to all persons without regard to the purpose for which the information is sought.”).

Sincerely,

DOUGLAS J. PETERSON  
Attorney General

A handwritten signature in blue ink that reads "Leslie S. Donley". The signature is written in a cursive style with a large, looping initial "L".

Leslie S. Donley  
Assistant Attorney General

c: Rick Kentfield

49-1825-29