

N.D.A.G. Letter to Knell (Jan. 26, 1990)

January 26, 1990

Honorable Gary Knell
District 33
House of Representatives
P.O. Box 233
Hazen, ND 58545

Dear Representative Knell:

Thank you for your recent letter inquiring of the status of a student survey in light of North Dakota's open records law.

According to your letter and a telephone conversation you had with a member of my staff, a school district has obtained a student survey from a company located in Chicago, Illinois. That survey has been distributed and answers have been collected. A student's parent has asked to review the survey and its questions. Your letter was sent to me to determine whether the parent could review the survey questions which remain in the possession of the school district.

North Dakota's open records law states that all records of public or governmental bodies, boards, bureaus, commissions, or agencies of the state or any political subdivision of the state or any agency supported in whole or in part by public funds shall be public records unless there is a law which specifically provides for these records to be confidential. The North Dakota Supreme Court has concluded that the term "records" used within the open records laws refers to those documents of official import retained by public officers or employees in the course of their public duties. City of Grand Forks v. Grand Forks Herald, 307 N.W.2d 572, 578 (N.D. 1981). I assume that the student survey was obtained by the school district in the performance in the official duties of that school district. Because school districts are subject to the open records law and there is no specific exception to that law for student survey questions, I conclude that these survey questions are indeed open to public inspection.

I hope this general discussion is helpful to you and your constituents.

Sincerely,

Nicholas J. Spaeth

vkk