

N.D.A.G. Letter to Hagerty (March 29, 1985)

March 29, 1985

Ms. Gail Hagerty
Burleigh County State's Attorney
Burleigh County Courthouse
514 East Thayer Avenue
Bismarck, North Dakota 58501

Dear Ms. Hagerty:

Thank you for your letter of March 11, 1985, requesting clarification as to the open meetings law and its applicability to an individual of a public body who holds a meeting with other individuals.

The North Dakota open meetings law is applicable to all meetings of public or governmental bodies, boards, bureaus, commissions, or agencies of the state or any political subdivision of the state or any organization or agencies supported in whole or in part by public funds or which expends public funds. In the factual situation briefly described in your letter, a meeting has occurred involving a member of a public body. However, the meeting itself is not a meeting of a public or governmental body and does not otherwise satisfy the language of the open meetings law.

I am unaware of any court decision or previous attorney general's opinion concluding that an open meeting exists where a member of public body holds a meeting with other individuals and the meeting itself is not a meeting of a public body, organization supported in whole or in part by public funds, or one that expends public funds. To extend the open meetings law to such situations would result in a situation where a meeting of any public official who is a member of any public body would be considered an open meeting despite the fact that the meeting is not one of a public or governmental body and does not otherwise satisfy the open meetings law. To extend the open meetings law to such situations would be unjust and absurd. Statutes cannot be so interpreted according to our North Dakota Supreme Court. See, In Interest of B.L., 301 N.W. 2d 387 (N.D. 1981); State v. Mees, 272 N.W.2d 61 (N.D. 1978).

The only exception would be those situations where a delegation of authority has occurred from the public body to a committee or individual to act on behalf of the public body. There are prior attorney general opinions concluding that meetings involving such a committee are indeed subject to the open meetings law.

Sincerely,

Nicholas J. Spaeth

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