

N.D.A.G. Letter to Collins (Aug 10, 1989)

August 10, 1989

Mr. Sparb Collins
Interim Executive Director
North Dakota Public Employees
Retirement System
400 East Broadway, Suite 505
Box 1214
Bismarck, ND 58502

Dear Mr. Collins:

Thank you for your July 26, 1989, letter concerning the manner in which the Retirement Board may interview candidates for the position of executive director of the North Dakota Public Employees Retirement System (PERS).

The PERS Retirement Board is a state agency. N.D.C.C. § 54-52-03. Meetings of state agencies, and other public entities as well, must be open to the public unless a statutory provision provides otherwise. A state agency violates N.D.C.C. § 44-04-19 if it refuses access to its meetings to any person, unless that refusal occurs because of a lack of physical space in the meeting room for those seeking access.

As the Retirement Board is a state agency and is subject to the open meetings law, its meetings must be open to the public unless the law authorizes a closed meeting. Currently, there are no statutes authorizing closed meetings of the Retirement Board to conduct interviews. Thus, any meeting the Board holds for the purpose of conducting interviews of candidates for the position of executive director must be open to the public. Additionally, the Board is unable to refuse access to its meetings by other candidates or any other person unless such refusal occurs because of a lack of physical space in the meeting room.

I hope this information is helpful to you and members of the Board.

Sincerely,

Nicholas J. Spaeth