

## **Index of Open Records Opinions - by Subject**

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## **ABUSE AND NEGLECT**

|                    |  |
|--------------------|--|
| N.D.A.G. 2003-O-10 | September 4, 2003, to Tri-County Intervention, Inc. Records of domestic and sexual assault confidential.                             |
| N.D.A.G. 94-F-21   | July 28, 1994, to Henry Wessman<br>Privileged medical records may be reviewed.   |
| N.D.A.G. 94-F-12.  | April 5, 1994, to Henry Wessman<br>Information on institutional abuse.   |
| N.D.A.G. 94-F-03   | January 27, 1994, to Henry Wessman<br>Disclosure of abuse and neglect records to federal officials.                                  |
| N.D.A.G. Letter    | December 19, 1991, to Lloyd Omdahl<br>Exchange of abuse and neglect information between department and county social service boards. |
| N.D.A.G. Letter    | November 4, 1991, to Wayne Sanstead<br>Counseling session with student.  |
| N.D.A.G. 88-04     | February 8, 1988, to Alan Duppler<br>Waiver of confidentiality by the subject of an abuse report.                                    |
| N.D.A.G. 84-31     | August 17, 1984, to Tom Slorby<br>Providing abuse reports to defense counsel.  |
| N.D.A.G. 84-05     | January 19, 1984, to James Twomey Privileged medical records may be reviewed.  |

## **AGRICULTURE**

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|--------------------|--|
| N.D.A.G. 2008-L-20 | December 22, 2008, to Agriculture Commissioner<br>When a confidential record is required for the enforcement of the Pesticide Act, it is no longer confidential. |
| N.D.A.G. 98-L-77   | June 17, 1998, to Douglas Johansen Field<br>inspection applications and reports.   |
| N.D.A.G. 95-L-243  | October 23, 1995, to Robert Peterson<br>Legal and tax assistance program records of the Credit Review Board and the Agriculture Commissioner.                    |
| N.D.A.G. 78-154    | May 4, 1978, to Myron Just Potato<br>council records.  |

## **ATTORNEY WORK PRODUCT**

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|--------------------|---|
| N.D.A.G. 2021-O-05 | May 13, 2021 to the City of Minot<br>A public entity cannot deny records under the attorney work product exemption to the open records laws if the documents do not meet all three of the elements for attorney work product. |
| N.D.A.G. 2015-O-11 | August 6, 2015, to Bismarck Public Schools<br>An analysis must take place before attorney billing statements can be redacted as “attorney work product.”  |

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| N.D.A.G. 2010-O-08 | June 24, 2010, to Risk Management Division, Office of Management and Budget<br>In order for requested billing records to be considered “attorney work product,” all three elements must exist under statute. Billing records of a pending claim against the state are exempt from open records law but may be released at discretion of public entity. Reasonable for entity to redact portions of billing statements that reveal attorney’s thought process for trial strategy and legal theories. |
| N.D.A.G. 2008-O-09 | April 4, 2008, to Workforce Safety and Insurance<br>All three elements under N.D.C.C. § 44-04-19.1(6) must be present for a record to be exempt as “attorney work product.”   |
| N.D.A.G. 2007-O-07 | April 24, 2007, to Coolin Township<br>Records held by a private attorney working for a public entity are subject to the open records laws.  |
| N.D.A.G. 2003-O-17 | October 31, 2003, to City of Grand Forks<br>Attorney work product available for disclosure after litigation and administrative proceedings are complete.  |
| N.D.A.G. 2002-O-05 | April 1, 2002, to Fred Stregge Types<br>of records protected.   |
| N.D.A.G. 2002-O-01 | January 10, 2002, to Wade Enget<br>Exemption is waived if shared with adversary.  |
| N.D.A.G. 92-04     | January 17, 1992, to Helen Tracy<br>Record prepared in anticipation of an adversarial administrative proceeding.  |

## **AUDITOR, STATE**

|                    |  |
|--------------------|--|
| N.D.A.G. 2001-L-36 | September 14, 2001, to Robert Peterson<br>State auditor may not have access to or examine income tax returns except during an audit of the tax department under N.D.C.C. §§ 54-10-24 and 54-10-22.1. |
| N.D.A.G. 95-L-01   | January 17, 1995, to Robert Peterson<br>Attorney billings to Protection and Advocacy Project.  |
| N.D.A.G. 94-L-305  | November 3, 1994, to Gordy Smith<br>Access to records of Protection and Advocacy Project for audit purposes.   |

## **CITIES**

|                    |   |
|--------------------|---|
| N.D.A.G. 2005-O-16 | October 6, 2005, to Mayor of City of Oakes<br>Records given to council members by the mayor at a meeting. |
| N.D.A.G. 2005-O-01 | January 10, 2005, to City of Napoleon<br>Arrangement to review city ordinances.                           |
| N.D.A.G. 2004-O-20 | September 7, 2004, to City of Napoleon Access to city ordinances.   |
| N.D.A.G. 2003-O-17 | October 31, 2004, to City of Grand Forks Release of attorney work product.                                |
| N.D.A.G. 2003-O-04 | February 25, 2003, to City of Fargo<br>E-mails of city commissioners and the mayor.                       |

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| N.D.A.G. 2002-O-09 | September 17, 2002, to Van de Streek, Boughey, and Lee<br>City funds to reimburse Minot Area Chamber of Commerce Task Force.                 |
| N.D.A.G. 2002-L-41 | July 12, 2002, to John Warcup Real<br>property appraisal.  |
| N.D.A.G. 95-L-174  | July 24, 1995, to Robin Thompson Gordon<br>Client files of city attorney.  |
| N.D.A.G. 94-L-103  | April 14, 1994, to Wayne Hokenson<br>Home improvement loan records and city checkbook (but see N.D.A.G. 2000-L-107 June 28 to Lisa Gibbens). |
| N.D.A.G. 90-32     | December 31, 1990, to Wayne Solberg Field<br>notes of city assessor.   |
| N.D.A.G. Letter    | January 10, 1973, to Hugh McCutcheon<br>Work papers of city assessor ( <u>but see</u> N.D.A.G. 90-32 December 31 to Wayne Solberg).          |

## COMMERCIAL INFORMATION

## SEE TRADE SECRETS

## COMPUTER RECORDS

|                    |   |
|--------------------|---|
| N.D.A.G. 2014-O-10 | August 22, 2014, to North Dakota Department of Public Instruction Emails sent from a public employee's private email address that was not set up at the direction of the employer, but still contain "public business" are subject to open records law.   |
| N.D.A.G. 2013-O-18 | November 22, 2013, to North Dakota University Systems<br>It is not a violation of the open records law to use the search method available on the public entity's computer system. Employees of a public entity would not know how to access "Recoverable Items" folder without the extensive use of IT resources for which a charge may be assessed pursuant to N.D.C.C. § 44-04-18(3). |
| N.D.A.G. 2011-O-12 | August 30, 2011, to North Dakota State University Excising<br>computer records.   |
| N.D.A.G. 2008-O-29 | December 12, 2008, to North Dakota High School Activities Association<br>Availability of a record on a website does not nullify right of public to receive copy.  |
| N.D.A.G. 2008-O-17 | July 15, 2008, to Adams County<br>If public records are maintained in a database, there must be some meaningful way to access those records and make electronic copies.   |
| N.D.A.G. 2008-O-15 | July 1, 2008, to Fargo Public School District and Fargo Park District Records<br>maintained on a private, home computer by an agent of a public entity relating to public business are subject to open records law.   |
| N.D.A.G. 2005-O-05 | March 30, 2005, to North Dakota State University Request for<br>records in electronic format.   |
| N.D.A.G. 2003-O-09 | August 27, 2003, to North Dakota Game & Fish Department Clarification<br>reasonable for complicated request for electronic records.   |
| N.D.A.G. 2003-O-04 | February 25, 2003, to City of Fargo<br>E-mails of city commissioners and the mayor.   |

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| N.D.A.G. 98-O-22 | October 16, 1998, to Roger Gress and Timothy Davies Excising computer records.   |
| N.D.A.G. Letter  | September 10, 1992, to Helen Tracy<br>Raw data in a computer database is a record.   |
| N.D.A.G. Letter  | October 8, 1991, to Charlie Whitman<br>Lack of authority to charge for access to open records applies to computer records. |

## **CORRECTIONS**

## **SEE INMATE RECORDS**

## **COUNTIES**

|                    |   |
|--------------------|---|
| N.D.A.G. 2008-L-01 | February 13, 2008, to Ladd Erickson<br>Back-up preservation records of a county recorder that are stored offsite are not accessible for reproduction by the public under N.D.C.C.<br>§ 11-18-05(6) and the recorder does not have the discretion of allowing the public to duplicate the offsite records kept as the backup to the county records. N.D.C.C. § 11-18-05(5) gives county recorders the authority to develop procedures that promote the orderly duplication of the records including reasonable limits on the use of personal equipment in the recorder's office that would interfere with others duplicating the records, damage the records, or impede the recorder's ability to monitor how the records are handled. |
| N.D.A.G. 2004-O-23 | October 27, 2004, to Stark County<br>Marriage licenses in county recorder's office are open records.  |
| N.D.A.G. 2004-O-05 | February 17, 2004 to Grand Forks County Planning & Zoning Department<br>Records prepared by part-time county employee.  |
| N.D.A.G. 2002-L-39 | July 12, 2002, to Linda Hickman Wills<br>deposited with county recorder.  |
| N.D.A.G. 95-L-88   | April 3, 1995, to James Odegard<br>Records of medical county coroner.   |
| N.D.A.G. 94-L-90   | April 4, 1994, to Jim Yockim Settlement<br>agreement with city official.  |
| N.D.A.G. 94-L-52   | March 7, 1994, to Ronald McBeth Confidential<br>records remain "public" records.  |
| N.D.A.G. Letter    | July 11, 1985, to Richard Wilkes<br>Noxious weed investigative reports.   |
| N.D.A.G. 82-02     | January 20, 1982, to Herbert Engberg<br>Reasonable office hours and fee for after-hours access can be set by the county.  |
| N.D.A.G. 79-195    | July 16, 1979, to James Purdy<br>Microfilming of county records by abstract company.  |
| N.D.A.G. 78-124    | September 7, 1978, to Ronald Splitt<br>Sale of joint interest in microfilm records is not authorized.   |
| N.D.A.G. 71-83     | December 3, 1971, to Vincent LaQua Transcript<br>of coroner's inquest is open.  |

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|----------------|---|
| N.D.A.G. 66-49 | August 22, 1966, to Eugene Kruger<br>County officers who have possession of records and need office space.                                      |
| N.D.A.G. 65-75 | January 15, 1965, to John Alphson<br>County welfare board possesses public records and must be provided a suitable building at the county seat. |
| N.D.A.G. 51-37 | June 14, 1951<br>Microfilming of county records.  |

## COURTS

|                    |   |
|--------------------|---|
| N.D.A.G. 2003-O-06 | April 25, 2003, to Disciplinary Board of the ND Supreme Court<br>Records of Disciplinary Board and Judicial Conduct Commission are court records not subject to open records law. |
| N.D.A.G. 2002-L-19 | April 1, 2002, to Kenneth Dalstad<br>Jurisdiction of juvenile court.  |
| N.D.A.G. 2000-F-09 | February 28, 2000, to Frank Wald Definition<br>of "juvenile court."   |
| N.D.A.G. 99-L-71   | August 6, 1999, to Wayne Stenehjem Clerks<br>and criminal history records.  |
| N.D.A.G. 95-L-148  | June 21, 1995, to Larry Quast<br>Courts have discretion over access to judicial records.  |
| N.D.A.G. 94-F-18   | July 1, 1994, to Jeff Roterling<br>Release of child support records by clerk of court.  |
| N.D.A.G. Letter    | September 15, 1992, to Ronald McBeth<br>Release of court records regarding child support.   |
| N.D.A.G. 90-01     | January 4, 1990, to Tom Slorby<br>Authority of school principal to review juvenile files.   |
| N.D.A.G. Letter    | November 17, 1987, to William Bohn Court<br>criminal history records.   |
| N.D.A.G. Letter    | April 15, 1985, to Gail Hagerty Access<br>to conviction records.  |
| N.D.A.G. Letter    | December 27, 1984, Robert Manly Access to<br>probate records.   |
| N.D.A.G. 81-112    | October 16, 1981, to John Van Grinsven III Adoption<br>records.   |
| N.D.A.G. 75-27     | November 18, 1975, to Myron Atkinson, Jr. County<br>probate records.  |
| N.D.A.G. 67-175    | November 20, 1967, to John Alphson<br>Records of the psychiatric examinations of criminal defendants.   |
| N.D.A.G. 49-149    | May 27, 1949<br>Dockets of a justice of the peace.  |

# **CRIMINAL HISTORY RECORDS**

## **SEE LAW ENFORCEMENT**

## **DENIAL OF RECORDS**

|                    |   |
|--------------------|---|
| N.D.A.G. 2024-O-10 | November 12, 2024, to Mandan Park District<br>Generally, an entity's denial of records based on unpaid fees is nullified once the requestor has paid the fees.  |
| N.D.A.G. 2022-O-15 | October 17, 2022, to Pelican Township<br>A public entity cannot deny a request for records as discovery pursuant to N.D.C.C. 44-04-18(6) after entry of final judgment of an order.   |
| N.D.A.G. 2021-O-09 | September 3, 2021, to the Office of the Governor<br>The entity must communicate the delay to the requester. A three-week delay for 334 pages of readily available and uncomplicated records is unreasonable.  |
| N.D.A.G. 2021-O-05 | May 13, 2021, to the City of Minot<br>A public entity cannot deny records under the attorney work product exemption to the open records laws if the documents do not meet all three of the elements for attorney work product.                      |
| N.D.A.G. 2020-O-10 | September 30, 2020, to the Mandan Police Department<br>The entity violated the open records law when it did not explain its legal authority for redacting specific information, and exceeding the redaction allowed by law.                         |
| N.D.A.G. 2020-O-08 | July 16, 2020, to Department of Health<br>When an entity has discretion to release information by law, it is not a violation of open records law when the entity uses its discretion to deny the release of the requested information.              |
| N.D.A.G. 2020-O-01 | February 6, 2020, to the North Dakota Board of Accountancy<br>Public entities must redact out portions of a record that contain confidential or exempt information, turning over the remaining public portion of the record subject to the request. |
| N.D.A.G. 2019-O-15 | July 19, 2019, to Belcourt School District #7<br>It was a violation of the law when the school district failed to inform the requestor that it was withholding a record in its response.  |
| N.D.A.G. 2018-O-13 | July 16, 2018, to City of Sentinel Butte<br>Public entities must inform a requestor that a record does not exist.   |
| N.D.A.G. 2018-O-03 | February 9, 2018, to City of Bismarck<br>A public entity can deny a request for records as active criminal intelligence and investigative information if the records are related to and still relevant to open cases.                               |
| N.D.A.G. 2015-O-17 | October 19, 2015, to City of Dickinson<br>The public entity must inform the requestor if records do not exist.  |
| N.D.A.G. 2015-O-14 | August 14, 2015, to North Dakota State Board of Dental Examiners<br>A public entity may not deny a request for records that are in the hands of its "agent" relating to public business.  |



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| N.D.A.G. 2014-O-07 | July 28, 2014, to North Dakota State University Development Foundation<br>Allegations that a request for records was “too vague,” would be “cost prohibitive,” and a “strain on the personnel resources” to fulfill are not exceptions to the open records law and are not legal bases for denying a records request.   |
| N.D.A.G. 2013-O-08 | May 24, 2013, to North Dakota State University<br>Must provide requestor with analysis and correct legal reasoning for withholding entire records under FERPA.  |
| N.D.A.G. 2011-O-11 | August 24, 2011, to North Dakota Department of Human Services Normally, the identity of the requestor and purpose of the request for open records of a public entity are irrelevant because the right to access public records belongs to all persons equally. The law, however, does not allow a party involved in litigation to circumvent the discovery process when seeking records from a public entity. |
| N.D.A.G. 2011-O-10 | August 10, 2011, to Cass County Historical Society<br>Board violated law when did not provide requested e-mails and minutes, without explanation, within a reasonable time.   |
| N.D.A.G. 2011-O-09 | June 29, 2011, to Bank of North Dakota<br>Bank of North Dakota is a financial institution that is subject to statutory and federal law that requires it keep the “commercial or financial information of a customer” confidential.  |
| N.D.A.G. 2009-O-08 | June 15, 2009, to University of North Dakota Alumni Association and University of North Dakota Foundation<br>Copy of a software contract should have been released to requester.  |
| N.D.A.G. 2008-O-27 | December 1, 2008, to University of North Dakota<br>It was a violation of the open records law to inaccurately allege that FERPA prohibited the release of disciplinary records under any circumstance.  |
| N.D.A.G. 2008-O-26 | November 12, 2008, to CommunityWorks North Dakota, North Dakota Housing Finance Agency<br>Because CommunityWorks is not subject to the open records law, it did not violate the law by denying records. The ND Housing Finance Agency did not violate the law by refusing to provide records that are confidential by statute.  |
| N.D.A.G. 2008-O-19 | July 15, 2008, to Foster County<br>The fact that the requester was not a licensed attorney and from an out of state business is not grounds to deny or delay providing records that are open to the public.   |
| N.D.A.G. 2008-O-17 | July 15, 2008, to Adams County<br>A request for copies of records maintained in a database is not a request to create or compile records that do not exist.   |
| N.D.A.G. 2008-O-12 | June 23, 2008, to Round Prairie Township<br>Even though a requester has access to requested minutes at a meeting, he is nonetheless entitled to copies of the minutes.  |
| N.D.A.G. 2008-O-07 | March 20, 2008, to Workforce Safety and Insurance<br>Public entities must thoroughly search for records that are requested.   |
| N.D.A.G. 2008-O-05 | February 29, 2008, to Workforce Safety and Insurance<br>Improper legal authority used to deny records.  |

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| N.D.A.G. 2008-O-04 | February 29, 2008, to Workforce Safety and Insurance Improper legal authority used to deny records.  |
| N.D.A.G. 2008-O-03 | February 29, 2008, to Workforce Safety and Insurance<br>Video surveillance security tapes are exempt as part of security system plans.   |
| N.D.A.G. 2007-O-11 | August 3, 2007, to City of Mandan<br>A public entity needs to respond to a request for records within a reasonable time, even if the response is that the records do not exist.      |
| N.D.A.G. 2007-O-03 | March 1, 2007, to ND Department of Transportation<br>The DOT cannot deny a record because a requestor refuses to complete a form or explain the purpose behind the request.          |
| N.D.A.G. 2007-O-01 | February 12, 2007, to ND Department of Transportation Access to an existing database.  |
| N.D.A.G. 2006-O-14 | October 4, 2006, to Williston Family Crisis Shelter<br>A public entity must describe the legal authority for denying a requested record.   |
| N.D.A.G. 2006-O-12 | July 25, 2006, to Wayne Samdahl, Pembina County Sheriff<br>A public entity must give an accurate reason for denial of a record.  |
| N.D.A.G. 2006-O-09 | May 15, 2006, to City of Grand Forks<br>Opinions, thoughts, or mental impressions are not records  |
| N.D.A.G. 2006-O-08 | May 4, 2006, to North Dakota Stockmen's Association<br>Active criminal investigative information is exempt from the open records law.  |
| N.D.A.G. 2006-O-04 | February 21, 2006, to Bismarck-Mandan Orchestral Association<br>A record cannot be denied merely because it contains confidential information.                                       |
| N.D.A.G. 2005-O-20 | December 5, 2005, to Minto Special Assessment Commission<br>Entity's agent has duty to honor request for copies.   |
| N.D.A.G. 2005-O-16 | October 6, 2005, to Mayor of City of Oakes Marking<br>record "confidential" not a basis for denial.  |
| N.D.A.G. 2004-O-11 | May 17, 2004, to Halliday Public School District<br>Written denial of records need not have specific legal authority.  |
| N.D.A.G. 2003-O-21 | December 1, 2003, to Department of Human Services Entity<br>asked for written request for records.   |
| N.D.A.G. 2003-O-09 | August 27, 2003, to North Dakota Game & Fish Department<br>When records are not available in requested format, identify to requestor what formats are available as soon as possible. |
| N.D.A.G. 2000-O-13 | December 14, 2000, to Norbert Sickler Sufficient<br>description of legal basis for denial.   |
| N.D.A.G. 98-O-10   | May 7, 1998, to R. James Maxson, et al<br>Denials of nonexistent records must be in writing.   |
| N.D.A.G. 98-O-04   | March 3, 1998, to Norbert Sickler and Franklin Appledorn A<br>reasonable delay is not a denial.  |
| N.D.A.G. 98-O-03   | February 20, 1998, to Glenn Giese and Lester Brackel<br>Denial must address all requested records which are not disclosed.   |

# DISCLOSURE OF CLOSED OR CONFIDENTIAL RECORDS

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| N.D.A.G.<br>2012-O-09 | December 4, 2012, to North Dakota State University<br>Incident reports filed with Risk Management of OMB are exempt records under N.D.C.C. § 32-12.2-11. Handwritten notes filed with and attached to the report that describe the specific incident are also exempt. Under this statute, the public entity submitting the report does not have discretion to disclose the exempt record without the authorization of Risk Management. |
| N.D.A.G.<br>2009-O-08 | June 15, 2009, to University of North Dakota Alumni Association and University of North Dakota Foundation<br>Requested record did not contain exempt donor information.  |
| N.D.A.G.<br>2008-L-20 | December 22, 2008, to Agriculture Commissioner<br>Confidential records cannot be released for “medical necessity” under Pesticide Act.   |
| N.D.A.G.<br>2008-O-27 | December 1, 2008, to University of North Dakota<br>UND failed to consider whether the records of any or all of the students could be released after removing personally identifiable information.  |
| N.D.A.G.<br>2008-O-20 | August 1, 2008, to Workforce Safety and Insurance<br>N.D.C.C. § 65-04-15 only protects safety grant records that would reveal premium or payroll information.  |
| N.D.A.G.<br>2006-O-04 | February 21, 2006, to Bismarck-Mandan Orchestral Association Personnel records of a non-profit entity may be exempt.   |
| N.D.A.G.<br>2006-O-03 | February 14, 2006, to Red River Valley Fair Association Personnel records of public entity.  |
| N.D.A.G.<br>2005-O-13 | August 10, 2005, to Grand Forks Police Department Information in evidence log.   |
| N.D.A.G.<br>2004-O-23 | October 27, 2004, to Stark County<br>Marriage licenses in county recorder’s office.  |
| N.D.A.G.<br>2004-L-25 | April 1, 2004, to Senator Ray Holmberg<br>Comprehensive booklist of required textbooks is trade secret.  |
| N.D.A.G.<br>2004-O-06 | March 19, 2004, to Job Service North Dakota Unemployment compensation records kept by job service.   |
| N.D.A.G.<br>2004-L-09 | January 30, 2004, to Carol Olson<br>Social Security Numbers are confidential under N.D.C.C. § 44-04-28 and may only be released as provided by this section or by other state or federal law. N.D.C.C. § 50-06-15 constitutes “other law” that allows the Department of Human Services to disclose social security numbers for administration of DHS programs.   |
| N.D.A.G.<br>2003-L-38 | September 15, 2003, to David Glatt<br>Names and addresses of landowners participating in state ground water monitoring are confidential under N.D.C.C. § 23-33-08.   |
| N.D.A.G.<br>2003-O-11 | September 4, 2003, to State Tax Commissioner<br>Names of companies having agreements with North Dakota under the Streamlined Sales Tax Project confidential.   |

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| N.D.A.G.<br>2002-L-55 | October 4, 2002, to Aaron Kauter Retirement benefits records in personnel file. |
| N.D.A.G.<br>2002-L-39 | July 12, 2002, to Linda Hickman Wills deposited with county recorder.           |

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| N.D.A.G. 2002-L-06 | January 29, 2002, to Mike Mullen<br>Out-of-wedlock births and causes of death released for statistical purposes.                     |
| N.D.A.G. 2000-L-48 | April 4, 2000, to Warren Emmer Inmate records.   |
| N.D.A.G. 99-L-115  | November 18, 1999, to Howard Swanson<br>Rights of member of governing body to closed or confidential records.                        |
| N.D.A.G. 99-L-30   | April 5, 1999, to Wade Enget<br>911 records.   |
| N.D.A.G. 98-F-28   | November 23, 1998, to Carol Olson<br>Conflicts with statutes restricting further disclosure.   |
| N.D.A.G. 98-L-194  | November 23, 1998, to Lyle Gallagher<br>911 records.   |
| N.D.A.G. 96-L-200  | November 7, 1996, to James Anders<br>Transmission of confidential information under the TDD system.                                  |
| N.D.A.G. Letter    | December 19, 1991, to Lloyd Omdahl<br>Exchange of abuse and neglect information between Department and county social service boards. |
| N.D.A.G. 72-356    | May 22, 1972, to Robert Brady<br>Access to accident reports by Unsatisfied Judgment Fund.  |
| N.D.A.G. 62-118    | January 12, 1962<br>Each public official must judge whether records in the official's possession are confidential.                   |
| N.D.A.G. 61-116    | December 28, 1961<br>Governor cannot compel insurance commissioner to divulge confidential communications.                           |

## **ECONOMIC DEVELOPMENT RECORDS**

### **SEE TRADE SECRETS**

## **EXECUTIVE SESSION, RECORDINGS AND MINUTES**

|                    |   |
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| N.D.A.G. 2022-O-05 | May 19, 2022, to North Dakota Board of Chiropractic Examiners<br>The executive session recording is a separate and distinct record from the protected records being discussed during executive session. The governing body's discussion of those protected records is also protected by open meeting laws. The board properly denied both requests for the executive session recording. |
| N.D.A.G. 2019-O-19 | October 17, 2019, to North Dakota Board of Chiropractic Examiners<br>It is proper to deny a records request for an executive session recording that was not authorized to be released by the governing body.  |
| N.D.A.G. 2004-O-13 | June 28, 2004, to Richland Public School District<br>Disclosure of tape of executive session.   |

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| N.D.A.G. 2004-O-10 | May 3, 2004, to Stutsman County Correctional Center<br>Recording of closed session of a meeting.              |
| N.D.A.G. 99-L-115  | November 18, 1999, to Howard Swanson<br>Rights of member of governing body to recording of executive session. |
| N.D.A.G. 99-O-07   | June 29 ,1999, to Ed Malazdrewicz<br>Recording is not an open record.   |
| N.D.A.G. 98-O-25   | November 24, 1998, to Douglas Schauer Minutes of<br>executive session; duration of closure.                   |

## **FEES FOR ACCESS AND COPIES**

|                    |   |
|--------------------|---|
| N.D.A.G. 2025-O-07 | March 7, 2025, to Milnor Public School District No. 2<br>The entity violated open records law by charging fees not permitted, including costs for mileage, travel time, initial record search time, and tasks not covered by law.   |
| N.D.A.G. 2018-O-03 | February 9, 2018, to City of Bismarck<br>Before undertaking the monumental task of reviewing and redacting a large number of records, a public entity may provide an estimate of costs based on legally chargeable fees and ask for payment upfront before it begins working on the request.  |
| N.D.A.G. 2018-O-02 | February 9, 2018, to Mandan Progress Organization<br>A public entity is allowed to estimate charges associated with responding to a records request as long as such charges are in compliance with N.D.C.C. § 44-04-18.   |
| N.D.A.G. 2018-O-01 | January 30, 2018, to Morton County Sheriff's Department<br>A statute that authorizes a public entity to charge a specific amount for records will trump the general charging laws of N.D.C.C. § 44-04-18.   |
| N.D.A.G. 2016-O-20 | September 23, 2016, to City of Cooperstown<br>Charges were reasonable when auditor began fulfilling request that was later changed by the requestor.  |
| N.D.A.G. 2014-O-18 | November 5, 2014, to City of Minot<br>The open records law does not allow entities to charge for the time it spends gathering, copying, organizing, forwarding, scanning, and printing records, time spent saving responsive records to a zip drive, or time spent corresponding with others regarding record requests. An entity can only charge \$.25 per page for printing electronic records if it is necessary for redaction of closed and confidential information. |
| N.D.A.G. 2014-O-17 | November 5, 2014, to City of Mandan<br>The open records law allowing for one free hour "per request" does not necessarily mean "per contact." It is reasonable for a public entity to consider subject matter and timing when determining the location charge.  |
| N.D.A.G. 2012-O-08 | August 2, 2012, to North Dakota State University Research &<br>Technology Park  |

N.D.A.G. 2011-O-12

August 30, 2011, to North Dakota State University

While a public entity may charge up to 25 cents a page for a paper copy, there is no charge for a copy provided electronically unless use of information technology resources is necessary. Law allows an hourly fee charge to excise confidential or closed information from e-mails if excising takes longer than one hour.

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| N.D.A.G. 2008-O-18  | July 15, 2008, to Mountrail County<br>Generally the wages attributable to the time public employees devote to maintaining and update public records has never been an allowable cost in determining the charges for a copy of a public record. |
| N.D.A.G. 2008-O-17  | July 15, 2008, to Adams County<br>A public entity may charge a reasonable fee for providing the copies, including costs attributable to the use of information technology resources.   |
| N.D.A.G. 2008-O-16  | July 9, 2008, to City of Mandan<br>The first hour spent reviewing records for confidential or exempt information is free.  |
| N.D.A.G. 2008-O-14  | June 24, 2008, to Dickinson State University<br>All the charges associated with making copies of 213 records were authorized by statute.   |
| N.D.A.G. 2008-L-01  | February 13, 2008, to Ladd Erickson<br>N.D.C.C. § 11-18-05(3) provides fees for recorded instruments in any format in possession of the county recorder.   |
| N.D.A.G. 2007-O-01  | February 12, 2007, to North Dakota Department of Transportation<br>Fee for providing access to electronically stored information from an outside location.   |
| N.D.A.G. 2006-O-15  | December 18, 2006, to Bismarck Parks and Recreation District<br>After the first hour, a public entity may charge a fee for locating requested records.   |
| N.D.A.G. 2006-O-13  | August 14, 2006, to University of North Dakota School of Aerospace Sciences<br>A public entity may charge fees for locating records and excising confidential information, and the actual cost of copies.                                      |
| N.D.A.G. 2005-O-05  | March 30, 2005, to NDSU<br>Estimate of costs not based on legally allowable charges.   |
| N.D.A.G. 2004-O-20. | September 7, 2004, to City of Napoleon Fee<br>used to deter requestor.   |
| N.D.A.G. 2004-O-07  | April 6, 2004, to Halliday Public School Fee<br>charged not actual cost.   |
| N.D.A.G. 2003-O-09  | August 27, 2003, to North Dakota Game & Fish Department<br>Locating charge of \$25 per hour cannot be charged for time formatting data.  |
| N.D.A.G. 2003-O-04  | February 25, 2003, to City of Fargo<br>Public entity may charge \$25 per hour after the first hour for locating e-mails  |
| N.D.A.G. 2002-O-06  | June 27, 2002, to Fabian Noack Excess<br>fees.   |
| N.D.A.G. 2002-O-04  | February 25, 2002, to Cal Rolfson<br>Determining actual cost of copies, including labor.   |
| N.D.A.G. 2000-L-179 | December 29, 2000, to Karen Krebsbach<br>Search fee.   |



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| N.D.A.G. 2000-O-11 | September 1, 2000, to Linda Cooksey Fee for creating new records.  |
| N.D.A.G. 2000-L-94 | May 26, 2000, to James Johnson Increased fees for sheriff records.   |
| N.D.A.G. 98-O-22   | October 16, 1998, to Roger Gress and Timothy Davies Excess fees.   |
| N.D.A.G. 98-O-04   | March 3, 1998, to Norbert Sickler & Franklin Appledorn Excess fees.  |
| N.D.A.G. 98-O-03   | February 20, 1998, to Glenn Giese and Lester Brackel No charge for locating records.   |
| N.D.A.G. 96-L-232  | December 3, 1996, to J. Thomas Traynor Fee for local copy of accident report (superseding N.D.A.G. 96-L-119 June 5, 1996, to J. Thomas Traynor). |
| N.D.A.G. 94-F-25   | August 5, 1994, to Rodney Feldner Reasonable fee means actual cost to the agency of making the copies.   |
| N.D.A.G. Letter    | October 8, 1991, to Charlie Whitman No access charge for computer records.   |
| N.D.A.G. Letter    | August 13, 1991, to Howard Swanson Charge for copies but not for access.   |
| N.D.A.G. 89-07     | June 23, 1989, to Nancy Jo Bateman Access fees are not permitted.  |
| N.D.A.G. Letter    | November 2, 1987, to Richard Olson Reasonable charge for copies of records.  |
| N.D.A.G. Letter    | December 19, 1983, to Duane Liffbrig Agency can only recover its cost of providing public records.   |
| N.D.A.G. 82-02     | January 20, 1982, to Herbert Engberg Fee for access to records outside regular office hours.   |

## **FINANCIAL INFORMATION**

### **SEE TRADE SECRETS**

## **HIGHER EDUCATION**

|                    |   |
|--------------------|---|
| N.D.A.G. 2008-O-27 | December 1, 2008, to University of North Dakota Under FERPA, disciplinary records may be released if personally identifiable information is adequately removed. |
| N.D.A.G. 2005-O-05 | March 30, 2005, to NDSU Request for records of professor in electronic format.  |
| N.D.A.G. 2004-L-25 | April 1, 2004, to Senator Ray Holmberg Records of privately operated bookstore at UND.  |
| N.D.A.G. Letter    | December 10, 1986, William Patrie Privately funded university research projects.  |

N.D.A.G. 85-03                      January 22, 1985, to John Richardson  
Private investigator's report on a faculty member.

## **HUMAN SERVICES**

### **See also: ABUSE AND NEGLECT**

N.D.A.G. 2003-O-21                      December 1, 2003, to Department of Human Services  
Written request for records not prerequisite to getting the record.

N.D.A.G. 99-L-57                      July 6, 1999, to Carol Olson  
Department is not an "occupational or professional board".

N.D.A.G. 98-L-32.                      March 30, 1998, to Carol Olson FBI  
criminal history information.

N.D.A.G. 95-L-04                      January 17, 1995, to Henry Wessman Early  
child services.

N.D.A.G. 94-L-267                      October 7, 1994, to Henry Wessman  
Investigation by mental health professional under N.D.C.C.  
§ 25-03.1-08.

N.D.A.G. 72-322                      February 9, 1972, to Walter Fiedler Records  
of Grafton State School.

N.D.A.G. 64-239                      December 30, 1964, to John Alphson  
Request from IRS for welfare recipient information.

N.D.A.G. 56-95                      April 4, 1956  
Inspection by elected public officials.

## **INMATE RECORDS**

N.D.A.G. 2000-O-13                      December 14, 2000, to Norbert Sickler Inmate  
medical records.

N.D.A.G. 2000-L-48                      April 4, 2000, to Warren Emmer Disclosure  
of confidential DOCR records.

N.D.A.G. 2000-F-09                      February 28, 2000, to Frank Wald  
Juvenile and federal inmates.

N.D.A.G. 2000-L-18                      February 14, 2000, to Elaine Little  
DOCR records are generally confidential (see also N.D.A.G. 2000-L-48 April 4,  
2000, to Warren Emmer).

N.D.A.G. Letter                      April 3, 1992, to Orell Schmitz  
Protection and Advocacy Project's access to inmate records.

N.D.A.G. Letter                      February 12, 1986, to James Marion  
Notice of application for parole is confidential.

## JUVENILE RECORDS

## SEE LAW ENFORCEMENT

## LAW ENFORCEMENT

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| N.D.A.G. 2023-O-02 | August 7, 2023, to North Dakota Highway Patrol and State Radio<br>The North Dakota Highway Patrol and State Radio should have provided a transcript of 911 calls to the Forum.   |
| N.D.A.G. 2019-O-01 | April 4, 2019, to North Dakota Forensic Examiner's Office and the University of North Dakota School of Medicine and Health Science<br>It was appropriate for the public entities to contact the law enforcement investigating agency to determine whether information contained in an otherwise public record could be withheld as active criminal intelligence and investigative information. |
| N.D.A.G. 2017-O-05 | August 23, 2017, to Morton County State's Attorney's Office and Morton County Sheriff's Department<br>Although body camera images taken by law enforcement in a public place are not protected under N.D.C.C. § 44-04-18.7, they may be withheld pursuant to other applicable law such as active criminal intelligence and investigation records under N.D.C.C. § 44-04-18.7.                  |
| N.D.A.G. 2014-O-16 | October 6, 2014, to West Fargo Police Department<br>A police department's decision to withhold the identity of a victim as exempt "active criminal investigative information" was proper based on the circumstances at the time of the records request.  |
| N.D.A.G. 2014-O-15 | September 30, 2014, to Grand Forks Police Department<br>Transcripts of 9-1-1 calls are generally open under N.D.C.C. § 57-40.6-07(4), however, if the transcripts contain information made exempt or confidential by other laws, such information may be withheld or redacted pursuant to open records law.  |
| N.D.A.G. 2013-O-09 | June 12, 2013, to Turtle Lake-Mercer School Board<br>"Background checks," consist of searching publically available information and are not confidential. Distinguished from a "criminal history record check" which are confidential and are performed by the Bureau of Criminal Investigation and consist of searching confidential law enforcement databases.                               |
| N.D.A.G. 2006-O-08 | May 4, 2006, to North Dakota Stockmen's Association<br>A law enforcement authority can withhold active criminal investigative information.   |
| N.D.A.G. 2005-O-13 | August 10, 2005, to Grand Forks Police Department Case is active if prosecution is not complete.   |
| N.D.A.G. 2004-O-03 | January 20, 2004, to Jamestown Police Department File not active when there was no ongoing investigation.  |
| N.D.A.G. 2002-L-19 | April 1, 2002, to Kenneth Dalstad<br>Minors who can be considered juveniles.   |

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| N.D.A.G. 2000-L-99 | June 13, 2000, to Howard Swanson<br>Distinction between a compilation of a person's criminal history and source documents.                                    |
| N.D.A.G. 2000-F-09 | February 28, 2000, to Frank Wald<br>"Law enforcement" does not include correctional facilities.   |
| N.D.A.G. 2000-L-04 | January 18, 2000, to Timothy Priebe<br>Juvenile records must pertain to a child who was alleged or found to be delinquent, unruly, or deprived.               |
| N.D.A.G. 99-L-126  | December 9, 1999, to James Odegard<br>Sharing of confidential information within a state's attorney's office.   |
| N.D.A.G. 99-L-71   | August 6, 1999, to Wayne Stenehjem Clerks<br>and criminal history records.  |
| N.D.A.G. 98-F-09   | April 9, 1998, to Kenneth Dalsted<br>Information obtained under a warrant.  |
| N.D.A.G. 98-L-32   | March 30, 1998, to Carol Olson FBI<br>criminal history information.   |
| N.D.A.G. 98-F-02   | January 8, 1998, to Calvin Rolfson<br>Access to juvenile records by state licensing boards.   |
| N.D.A.G. 97-O-01   | November 10, 1997, to Bob Harvey & Patricia Burke Identity of<br>minor victims and witnesses of traffic offenses.   |
| N.D.A.G. 96-L-232  | December 3, 1996, to J. Thomas Traynor<br>Local copy of accident report is open (superseding N.D.A.G. 96-L-119 June 5,<br>1996, to J. Thomas Traynor).        |
| N.D.A.G. 96-L-119  | June 5, 1996, to J. Thomas Traynor<br>Local copy of accident report is not open (superseded by N.D.A.G. 96-L-<br>232 December 3, 1996, to J. Thomas Traynor). |
| N.D.A.G. 95-L-181  | July 31, 1995, to Larry Quast School<br>access to juvenile records.   |
| N.D.A.G. 95-L-74   | March 21, 1995, to Wayne Solberg<br>Disclosure of criminal history record information under N.D.C.C. ch. 12-<br>60.   |
| N.D.A.G. 94-L-311  | November 10, 1994, to Doug Mattson<br>Charge for requests by social service board for criminal history record<br>information.                                 |
| N.D.A.G. Letter    | September 9, 1992, to Lonnie Olson Videotape of<br>adult arrested for DUI is a record.  |
| N.D.A.G. Letter    | June 16, 1992, to Donald Rudnick<br>Arrest information and other criminal records.  |
| N.D.A.G. Letter    | June 23, 1989, to Rod Larson<br>Records of a juvenile's death (but see N.D.A.G. 2000-F-09 February 28, 2000,<br>to Frank Wald).                               |
| N.D.A.G. 88-04     | February 8, 1988, to Alan Duppler Abuse<br>and neglect investigation reports.   |
| N.D.A.G. Letter    | November 17, 1987, to William Bohn Court<br>criminal history records.   |

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| N.D.A.G. Letter | January 27, 1986, to Stephen McLean Police ticket book.                                  |
| N.D.A.G. Letter | November 14, 1985, to Robert Alexander Statements of adult victims of criminal activity. |
| N.D.A.G. 79-201 | January 26, 1979, to John Zuger Law enforcement records in general.                      |

## MEDICAL RECORDS

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| N.D.A.G. 2002-L-06 | January 29, 2002, to Mike Mullen Vital records information.  |
| N.D.A.G. 2000-O-13 | December 14, 2000, to Norbert Sickler Inmate medical records.  |
| N.D.A.G. 94-F-21   | July 28, 1994, to Henry Wessman<br>Access to privileged medical information regarding abuse and neglect.   |
| N.D.A.G. 93-L-104  | March 22, 1993, to Lyle Gallagher Records on HIV status.   |
| N.D.A.G. 84-05     | January 19, 1984, to James Twomey<br>Access to privileged medical information regarding abuse and neglect. |
| N.D.A.G. 62-152    | February 23, 1962,<br>Access to results of blood test by the subject of the test.                          |
| N.D.A.G. 45-241    | May 8, 1945<br>Ownership of medical records.   |
| N.D.A.G. 45-240    | February 10, 1945<br>Disclosure of fugitive's medical information to Department of Justice.                |

## MINUTES

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| N.D.A.G. 2017-O-06 | August 23, 2017, to Foster County Water Resource Board<br>No reason to delay response in order to bring the request for meeting minutes before the board at its next meeting.  |
| N.D.A.G. 2016-O-17 | August 11, 2016, to Lidgerwood Rural District Ambulance Service<br>Draft meeting minutes cannot be withheld from an open records request until approved by a governing body.   |
| N.D.A.G. 2011-O-07 | May 26, 2011, to City of Dickinson's Human Relations Commission<br>At time of record request, draft minutes had not been prepared. It was not an unreasonably delay with the minutes were provided the day after the minutes were completed. |
| N.D.A.G. 2004-O-05 | February 17, 2004, to Grand Forks County Planning & Zoning Department<br>Minutes not prepared at time of request.  |
| N.D.A.G. 98-O-25   | November 24, 1998, to Douglas Schauer<br>Review of draft minutes.  |
| N.D.A.G. 98-O-15   | July 2, 1998, to Kevin Glatt<br>Whether minutes were requested is question of fact.  |

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| N.D.A.G. 98-O-11 | June 8, 1998, to Duane Mullenberg & Fabian Noack Draft minutes.  |
| N.D.A.G. 98-O-04 | March 3, 1998, to Norbert Sickler & Franklin Appledorn Meeting notes and draft minutes.  |
| N.D.A.G. 92-08   | April 8, 1992, to Mary Nordsven<br>The governing body of a modern council city was not required to publish minutes of meetings in an official newspaper. |

## **NONGOVERNMENTAL ORGANIZATIONS**

### **See also: PUBLIC ENTITY**

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| N.D.A.G. 2014-O-24 | December 26, 2014, to Bis-Man Transit<br>When a government entity delegates a public duty to a third party, documents in possession of the third party connected with public business are public records within the meaning of N.D.C.C. § 44-04-18.   |
| N.D.A.G. 2014-O-07 | July 28, 2014, to North Dakota State University Development Foundation<br>Foundations affiliated with public universities whose sole purpose is to support universities are “public entities” and records related to foundation expenditures for resources is considered “public business” subject to open records law. |
| N.D.A.G. 2009-O-08 | June 15, 2009, to University of North Dakota Alumni Association and University of North Dakota Foundation.<br>Entities are agents of UND when performing governmental functions set forth in agreement.   |
| N.D.A.G. 2008-O-26 | November 12, 2008, to CommunityWorks North Dakota, North Dakota Housing Finance Agency<br>CommunityWorks is not subject to the open records law. The North Dakota Finance Agency is subject to the open records law   |
| N.D.A.G. 2006-O-04 | February 21, 2006, to Bismarck-Mandan Orchestral Association<br>A nonprofit supported by or expending public funds is a public entity.  |
| N.D.A.G. 2004-L-25 | April 1, 2004, to Sen. Ray Holmberg<br>Barnes & Noble acting as agent of UND in operating bookstore.  |
| N.D.A.G. 2003-O-10 | September 4, 2003, to Tri-County Intervention, Inc. Nonprofit receives money for its general support.   |
| N.D.A.G. 2003-O-08 | July 22, 2003, to Dakota Center for Independent Living<br>Nonprofit recognized by state law and performing public function.   |
| N.D.A.G. 2003-O-02 | February 21, 2003, to James River Senior Citizen’s Center<br>Senior citizen’s center receiving unrestricted funds used for general support is a public entity.  |
| N.D.A.G. 2003-O-01 | January 30, 2003, to Minot School Board<br>Contractor making energy conservation improvements is not a public entity or agent of school district.   |
| N.D.A.G. 2002-O-09 | September 17, 2002, to Van de Streek, Boughey, and Lee<br>Minot Area Chamber of Commerce Task Force is supported by public funds and an agent of the city of Minot.   |

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| N.D.A.G. 2001-O-11 | September 13, 2001, to Greg Selbo<br>Economic development corporation.  |
| N.D.A.G. 2001-O-10 | September 7, 2001, to Lamont & Van de Streek<br>Economic development corporation; exception to fair market value of<br>economic development assistance. |
| N.D.A.G. 2001-O-04 | May 16, 2001, to Laural Forsberg<br>Advertising firm under contract with public entity.   |
| N.D.A.G. 99-O-03   | April 7, 1999, to Murray Sagsveen<br>Unrestricted funds for general support.  |
| N.D.A.G. 99-O-02   | April 5, 1999, to Steve Spilde Government<br>self-insurance pool.   |
| N.D.A.G. 98-O-24   | November 23, 1998, to Garylle Stewart and Vern Bennett<br>Unrestricted funds for general support.   |
| N.D.A.G. 98-F-19   | June 10, 1998, to Carol Olson Payments<br>under a "grant" agreement.  |
| N.D.A.G. 96-F-18   | September 13, 1996, to Gerald Sveen<br>International Peace Garden.  |
| N.D.A.G. 93-L-95   | March 17, 1993, to Jennifer Ring<br>GNDA is supported by public funds.  |
| N.D.A.G. Letter    | August 2, 1991, to Ken Solberg Government<br>self-insurance pool  |

## **OPEN RECORDS, IN GENERAL**

|                    |  |
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| N.D.A.G. 2024-O-01 | January 3, 2024, to Morton County Board of Equalization<br>Not responding to an open records request is a violation of open records<br>law.  |
| N.D.A.G. 2023-O-08 | November 20, 2023, to Office of the Governor, North Dakota<br>Department of the Interior, North Dakota Information Technology<br>Emails that have not been received due to spam and malicious email<br>protections do not constitute an unreasonable delay.                                    |
| N.D.A.G. 2023-O-04 | October 12, 2023, to Williston Basin School District #7<br>Executive session requires announcing the topic to be discussed during executive<br>session and the legal authority for the executive session. Discussions within the<br>executive session must be limited to the topics announced. |
| N.D.A.G. 2021-O-11 | November 8, 2021 to City of Oberon<br>A delay of over three months to provide responsive records, and failing to<br>provide records at all before the opinion was issued, violates open records laws.  |
| N.D.A.G. 2020-O-02 | April 29, 2020, to Bismarck Public School District #1 and Bismarck Public<br>School Board<br>If a request is specifically made for handwritten notes, a public entity must<br>provide the notes, even if not easily legible or readable.   |

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| N.D.A.G. 2018-O-23 | December 10, 2018, to Dakota Center for Independent Living<br>Response to vague open records request was reasonable interpretation.  |
| N.D.A.G. 2016-O-08 | April 25, 2016, to City of Golva<br>A public entity cannot circumvent the open records law by suddenly refusing to use available means of communication previously used to receive record requests without warning or providing an alternative option.   |
| N.D.A.G. 2015-O-16 | October 19, 2015, to Stark County<br>If there is a request for a recording in possession of a public entity, the public entity must provide the recording to the requestor, but may pass on the charges associated with placing the recording on a device, such as a thumb drive, if such a device is needed in order to fulfill the record request. The public entity cannot require the requestor to furnish the medium utilized to fulfill the records request. |
| N.D.A.G. 2011-O-11 | August 24, 2011, to North Dakota Department of Human Services Requests from adversary to action or proceeding for privileged records; application of discovery rules.  |
| N.D.A.G. 2010-O-04 | April 20, 2010, to North Dakota State University Research & Technology Park<br>Providing access to records generally does not require approval, supervision, or action by a head of agency.  |
| N.D.A.G. 2009-O-02 | February 20, 2009, to City of Mandan<br>A public entity cannot ask the name of a person seeking records or employer name as a condition of receiving records.  |
| N.D.A.G. 2008-O-29 | December 12, 2008, to North Dakota High School Activities Association<br>An entity must provide an e-mail copy of a record if asked, even if the record is available on the entity's website.  |
| N.D.A.G. 2008-O-19 | July 15, 2008, to Foster County<br>Out of state businesses have the same right of access to records even if the business intends to use the records for profit.  |
| N.D.A.G. 2008-O-08 | April 2, 2008, to Pierce County Social Services<br>A public entity may not require requests for records to be in writing under the pretext of clarification.   |
| N.D.A.G. 2007-O-07 | April 24, 2007, to Coolin Township<br>Records in the possession of a private attorney employed by a public entity that related to those duties are subject to the open records law.  |
| N.D.A.G. 2007-O-06 | April 17, 2007, to Burleigh County Commission<br>An individual requesting public records is not required to take further action after the initial request.   |
| N.D.A.G. 2007-O-01 | February 12, 2007, to North Dakota Department of Transportation<br>Information contained in a database is an open record.  |
| N.D.A.G. 2006-O-15 | December 18, 2006, to Bismarck Parks and Recreation District<br>A public entity cannot imply that a form must be completed in order to request records.  |
| N.D.A.G. 2006-O-04 | February 21, 2006, to Bismarck-Mandan Orchestral Association<br>If an entity's public funds are commingled with other funds, all records are open.   |



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| N.D.A.G. 2005-O-16 | October 6, 2005, to Mayor of City of Oakes Irrelevant that records were only “suggestions”.  |
| N.D.A.G. 2005-O-12 | June 28, 2005, to Oakes Park Board<br>Proof of residency not required to receive record.   |
| N.D.A.G. 2005-O-11 | June 27, 2005, to Grand Forks Historical Preservation Commission Requested record does not exist.  |
| N.D.A.G. 2005-O-09 | May 27, 2005, to Twin Buttes Public School Cannot require request for records to be in writing.  |
| N.D.A.G. 2005-O-06 | May 11, 2005, to Napoleon Economic Dev. Corp.<br>May not withhold records that are preliminary or tentative.   |
| N.D.A.G. 2004-O-20 | September 7, 2004, to City of Napoleon<br>Duty to provide records within reasonable time.  |
| N.D.A.G. 2004-O-05 | February 17, 2004, to Grand Forks County Planning & Zoning Department<br>Several factors determine whether response was within reasonable time.                      |
| N.D.A.G. 2003-O-21 | December 1, 2003, to Department of Human Services<br>Written clarification of request is not a prerequisite to receiving records.                                    |
| N.D.A.G. 2003-O-19 | November 12, 2003, to Northwood Park Board Request for records at a meeting is a valid request.  |
| N.D.A.G. 2003-O-08 | July 22, 2003, to Dakota Center for Independent Living<br>Request is overbroad if entity cannot reasonably identify the records.                                     |
| N.D.A.G. 2003-O-01 | January 30, 2003, to Minot Public School Board<br>Document not in the public entity’s possession is not a “record”.  |
| N.D.A.G. 2002-L-32 | June 5, 2002, to Mark Bachmeier<br>Effect of legislative changes making records open that were previously exempt.  |
| N.D.A.G. 2002-O-05 | April 1, 2002, to Fred Strege<br>Requests from adversary to action or proceeding for privileged records; application of discovery rules.                             |
| N.D.A.G. 2002-L-15 | February 28, 2002, to Kermit Lidstrom<br>Distinction between affirmative disclosure and release upon request.  |
| N.D.A.G. 2001-F-10 | December 11, 2001, to Eric Hardmeyer Bank of North Dakota customer information.  |
| N.D.A.G. 2001-O-12 | September 26, 2001, to Randall Sickler<br>Broad requests for records; effective date of new exceptions.  |
| N.D.A.G. 2001-O-06 | June 18, 2001, to Norbert Sickler<br>Definition of “copy”.   |
| N.D.A.G. 2000-F-09 | February 28, 2000, to Frank Wald<br>Most open records exceptions are specific to each public entity; public entity cannot create open records exception by contract. |
| N.D.A.G. 99-O-02   | April 5, 1999, to Steve Spilde<br>Settlement agreements.   |
| N.D.A.G. 98-O-20   | September 15, 1998, to Mike Every and Karen Mitzel<br>Multiple copies not required; no duty to create record.  |

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| N.D.A.G. 98-L-73  | June 8, 1998, to Jim Heck<br>Records possessed by two entities.  |
| N.D.A.G. 98-F-13  | May 12, 1998, to Johanna Zschomler<br>Requests by litigants.   |
| N.D.A.G. 98-O-07  | April 24, 1998, to Norbert Sickler<br>Discarding records subject to a pending request.                   |
| N.D.A.G. 98-O-03  | February 20, 1998, to Glenn Giese and Lester Brackel<br>Requests by telephone.                           |
| N.D.A.G. 94-L-194 | August 1, 1994, to Shirley Dykshoorn<br>Three categories of records: open, exempt, and confidential.     |
| N.D.A.G. Letter   | May 18, 1992, to Wayne Solberg<br>Records in possession of third party contractor.                       |
| N.D.A.G. Letter   | August 13, 1991, to Howard Swanson<br>Appropriate response to request for copies of open records.        |
| N.D.A.G. Letter   | July 17, 1991, to Steven Tomac<br>Hours of access to open records and permitted security measures.       |
| N.D.A.G. Letter   | November 2, 1987, to Richard Olson<br>Copies of open records.  |
| N.D.A.G. Letter   | July 11, 1985, to Richard Wilkes<br>Rules of evidence and procedure do not apply to records requests.    |
| N.D.A.G. 82-23    | Mar 25, 1982, to Kent Conrad<br>Time within which to respond to an open records request.                 |
| N.D.A.G. 82-02    | January 20, 1982, to Herbert Engberg<br>Hours of access.   |
| N.D.A.G. 79-106   | August 8, 1979, to William Gorder<br>Meaning of "reasonable office hours".                               |
| N.D.A.G. Letter   | February 23, 1978, to Russell Staiger<br>How to respond to request for open records.                     |
| N.D.A.G. Letter   | November 23, 1976, to Arthur Link<br>Agreement by state agency to keep federal information confidential. |
| N.D.A.G. 45-26    | August 13, 1945<br>Changing public records.  |

## **PERSONAL INFORMATION**

### **See also PUBLIC EMPLOYEES**

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| N.D.A.G. 2015-O-16 | October 19, 2015, to Stark County<br>Generally, applications and interview scores are considered public records that must be provided if requested. Some information may be redacted if provided by law, such as "personal information" under N.D.C.C. 44-04-18.1. |
| N.D.A.G. 99-L-57   | July 6, 1999, to Carol Olson<br>Department is not an "occupational or professional board".   |

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| N.D.A.G. 98-F-11 | April 30, 1998, to Mark Blumer Resumes and job applications.                                      |
| N.D.A.G. 97-L-13 | January 29, 1997, to Gerald Sveen<br>Notice of procedure to withhold personal driver information. |

## POSSESSION OF RECORDS

|                    |   |
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| N.D.A.G. 2024-O-08 | September 11, 2024, to Stanley Rural Ambulance District<br>Public entities are only responsible for providing records that exist and that they have in their possession.  |
| N.D.A.G. 2024-O-07 | September 11, 2024, to Stanley Rural Ambulance District<br>An entity is not required to create or compile a record that does not exist.   |
| N.D.A.G. 2023-O-09 | December 27, 2023, to Morton County Sheriff's Office<br>A public entity must communicate with a requester when a record does not exist or the entity is not in possession of the record.  |
| N.D.A.G. 2019-O-13 | July 18, 2019, to Dickinson School District<br>The School District properly denied a request for records it did not have in its possession.   |
| N.D.A.G. 2017-O-01 | March 10, 2017, to University of North Dakota<br>Preliminary designs of a logo in the possession of a UND's agent were subject to open records law which cannot be limited by policy or contract.   |
| N.D.A.G. 2014-O-20 | November 21, 2014, to Office of State Tax Commissioner<br>It is not a violation of open records law to fail to immediately produce records that are inaccessible for a certain amount of time until such records become available.  |
| N.D.A.G. 2013-O-18 | November 22, 2013, to North Dakota University Systems<br>Once an open records request is made, the public entity has the duty to preserve the records it has in its possession at that time.  |
| N.D.A.G. 2012-O-09 | December 4, 2012, to North Dakota State University<br>Usually, when a public entity is in possession of a record that is exempt, the entity possessing the records has discretion to disclose the records. However, N.D.C.C. § 32-12.2-11 requires the consent of Risk Management in order to disclose the exempt record. |
| N.D.A.G. 2010-O-02 | February 26, 2010, to Pembina County Emergency Management Office<br>Each agency of a political subdivision is responsible only for records in its possession and not for records that are in the possession of another agency, even if they are part of the same political subdivision.                                   |
| N.D.A.G. 2008-O-15 | July 1, 2008, to Fargo Public School District and Fargo Park District<br>The records requested are in the possession of agents of the school and park districts, and relate to public business so are "records" subject to the law.   |
| N.D.A.G. 2008-L-01 | February 13, 2008, to Ladd Erickson<br>Private companies do not retain any control, contractual or otherwise, over records in the possession of county recorders, even if the private entity provided the record to the county.   |
| N.D.A.G. 2005-O-16 | October 6, 2005, to Mayor of City of Oakes<br>Recording concerning public business and in possession of public entity subject to law.   |

N.D.A.G. 2005-O-13

August 10, 2005, to Grand Forks Police Department  
Each agency of political subdivision only responsible for records in its  
possession.

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| N.D.A.G. 2004-O-11 | May 17, 2004, to Halliday Public School District Requested preliminary budget did not exist.   |
| N.D.A.G. 2004-O-01 | January 2, 2004, to Industrial Commission and Department of Commerce<br>Information on PACE loans not in possession of Department of Commerce. |
| N.D.A.G. 2003-O-01 | January 30, 2003, to Minot Public School Board<br>Document returned to owner by public entity no longer a public record.                       |

## **PRELIMINARY DRAFTS AND WORKING PAPERS**

|                    |   |
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| N.D.A.G. 2015-O-08 | April 28, 2015, to Oberon Public School and School Board<br>Disclosure of draft minutes may not be conditioned on the approval of the minutes by the governing body.  |
| N.D.A.G. 2015-O-07 | April 20, 2015, to Fargo-Moorhead Diversion Authority Agricultural Policy Committee<br>A preliminary study became an open record when it was presented to the governing body of the subcommittee at an open meeting and related to the public business delegated to the subcommittee. |
| N.D.A.G. 2009-O-01 | February 2, 2009, to North Dakota State University<br>A University could use either 44-04-18(9) or (10) depending on the circumstances in order to deny a preliminary draft or working paper.   |
| N.D.A.G. 2004-O-07 | April 6, 2004, to Halliday Public School<br>Source documents that are complete in themselves are not "working papers".  |
| N.D.A.G. 2001-O-04 | May 16, 2001, to Laurel Forsberg<br>"Right of first review" and "work in progress".   |
| N.D.A.G. 2001-O-02 | April 5, 2001, to Gary Thune<br>Applications submitted to personnel firm are source documents and not protected.  |
| N.D.A.G. 98-O-04   | March 3, 1998, to Norbert Sickler & Franklin Appledorn<br>Definition of "working papers" and "preliminary drafts"   |
| N.D.A.G. 98-O-03   | February 20, 1998, to Glenn Giese and Lester Brackel<br>Completed forms are not "working papers".   |

## **PROPRIETARY INFORMATION**

### **SEE TRADE SECRETS**

## **PUBLIC BUSINESS**

|                    |  |
|--------------------|--|
| N.D.A.G. 2008-O-15 | July 1, 2008, to Fargo Public School District and Fargo Park District<br>The Urban Plains Center relates to the governmental function of the school and park district and is thus a matter of public business. |
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| N.D.A.G. 2007-O-07 | April 24, 2007, to Coolin Township<br>Recorded information of any kind received or prepared for use in connection with public business is a public record. |
| N.D.A.G. 2005-O-16 | October 6, 2005, to Mayor of City of Oakes<br>Record given to council at meeting by mayor with suggestions is public business.                             |
| N.D.A.G. 2001-O-11 | September 13, 2001, to Greg Selbo<br>Financial records of supported organization, audit reports, and personnel matters.                                    |
| N.D.A.G. 98-O-24   | November 23, 1998, to Garylle Stewart and Vern Bennett<br>Public business of supported organization includes all financial records.                        |
| N.D.A.G. 98-L-128  | September 2, 1998, to Jeff Rotering<br>"Record" requires link or association to the entity's public business.  |
| N.D.A.G. 94-F-19   | July 1, 1994, to Jerome Kelsh<br>Records of Labor Commissioner's telephone use and travel claims are open.   |
| N.D.A.G. Letter    | December 10, 1986, to William Patrie University<br>research projects for private firm.   |

## PUBLIC EMPLOYEES

|                    |   |
|--------------------|---|
| N.D.A.G. 2019-O-06 | April 16, 2019, to North Dakota Highway Patrol, Cass County Sheriff's Office, Bismarck Police Department, and Mandan Police Department Making an open record request to an employee of a public entity is equivalent to making a request to the public entity itself.   |
| N.D.A.G. 2013-O-16 | November 8, 2013, to Jamestown/Stutsman County Development Corporation<br>Although personnel records of public employees are generally open, there is an exception for employees for public entities that are subject to open records law <u>only</u> because they are supported by public funds. JSDC is supported by public funds and is an agent performing a governmental function so it cannot claim this exception for personnel records. |
| N.D.A.G. 2002-L-55 | October 4, 2002, to Aaron Kauter<br>Confidentiality of insurance plan participation and employer contribution to employee's insurance premiums.   |
| N.D.A.G. 98-F-11   | April 30, 1998, to Mark Blumer<br>Resumes and job applications.   |
| N.D.A.G. 97-F-06   | September 10, 1997, to Sparb Collins Confidentiality of employee benefit records.   |
| N.D.A.G. 94-L-309  | November 9, 1994, to Sparb Collins<br>Disclosure of confidential information by telephone to the employee.  |
| N.D.A.G. Letter    | May 18, 1992, to Wayne Solberg<br>Confidentiality of records possessed by a third party contractor.   |
| N.D.A.G. Letter    | April 21, 1988, to R.L. Rayl Privacy of personnel file.   |

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| N.D.A.G. Letter | January 11, 1988, to Alan Person<br>Ownership of PERS records in possession of group health insurance provider. |
| N.D.A.G. Letter | March 17, 1987, to Alan Person<br>Medical records of claims administrator are the property of PERS.             |
| N.D.A.G. 85-03  | January 22, 1985, to John Richardson<br>Private investigator's report on a faculty member.                      |
| N.D.A.G. 81-05  | February 3, 1981, to F.C. Rohrich<br>Application for city police officer.                                       |

## **PUBLIC ENTITY**

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| N.D.A.G. 2024-O-06 | September 11, 2024, to Southwest Healthcare Services<br>A “public entity” who receives or expends public funds is subject to open record laws  |
| N.D.A.G. 2017-O-07 | August 25, 2017, to University of North Dakota School of Law – Moot Court Association<br>Whether a student organization at a public university is subject to open records law requires the same analysis as any other organization.  |
| N.D.A.G. 2015-O-05 | April 6, 2014, to North Dakota Council of Educational Leaders<br>The NDCEL was not considered a “public entity” subject to open records law because all public funds it received were exchanged for fair market value of the goods and services provided.  |
| N.D.A.G. 2014-O-04 | April 24, 2014, to Dickinson State University Foundation<br>State universities are “public entities” and the solicitation and receipt of donations for the university, promoting and aiding the university, fundraising for the university, and keeping records of such activities are vital and indispensable government functions. Affiliated foundations that undertake these activities on behalf of universities perform government functions and are therefore “public entities” subject to the same open records law. |
| N.D.A.G. 2013-O-19 | December 23, 2013, to NDSU Research Park Ventures, LLC<br>A “public entity” includes entities that are created or recognized by state statute, or by an action of a political subdivision, to exercise public authority or perform a governmental function.  |
| N.D.A.G. 2013-O-10 | June 25, 2013, to North Dakota University System Foundation Foundation is supported by and expends public funds on behalf of NDUS. Foundation records relate to the public business of NDUS. Foundation is therefore a public entity.  |
| N.D.A.G. 2011-O-10 | August 10, 2011, to Cass County Historical Society<br>Cass County Historical Society is a public entity because it is supported by and expends public funds, it is recognized by state law as a county historical society, and it promotes historical work including historical preservation, which is a governmental function.  |
| N.D.A.G. 2011-O-09 | June 29, 2011, to Bank of North Dakota<br>Industrial Commission is a governing body of the Bank of North Dakota and a public entity subject to open records law.   |
| N.D.A.G. 2010-O-02 | February 26, 2010, to Pembina County Emergency Management Office County emergency services office is public entity.  |

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| N.D.A.G. 2006-O-08 | May 4, 2006, to North Dakota Stockmen's Association<br>An entity that acts as an agent of the state, performs a governmental function and receives an appropriation is a public entity. |
| N.D.A.G. 2006-O-03 | February 14, 2006, to Red River Valley Fair Association Fair Association.   |
| N.D.A.G. 2006-O-01 | January 9, 2006, to NDSU Research Foundation<br>NDSU Research Foundation is subject to open records law because it acts as an "agent" of NDSU.  |
| N.D.A.G. 2004-L-25 | April 1, 2004, to Sen. Ray Holmberg<br>Barnes & Noble public entity operating bookstore as agent of UND.  |
| N.D.A.G. 2003-O-10 | September 4, 2003, to Tri-County Intervention, Inc.<br>Nonprofit receives money for its general support from state funds.   |
| N.D.A.G. 2003-O-08 | July 22, 2003, to Dakota Center for Independent Living<br>Nonprofit recognized by state law to perform governmental function.   |
| N.D.A.G. 2003-O-02 | February 21, 2003, to James River Senior Citizen's Center Senior citizen's center is a public entity.   |
| N.D.A.G. 2003-O-01 | January 30, 2003, to Minot Public School Board<br>Contractor making energy conservation improvements is not a public entity.  |
| N.D.A.G. 2002-O-09 | September 17, 2002, to Van de Streek, Boughey, and Lee<br>Minot Area Chamber of Commerce Task Force is a public entity.   |
| N.D.A.G. 2002-L-15 | February 28, 2002, to Kermit Lidstrom<br>Teachers' representative organization.   |
| N.D.A.G. 2001-O-11 | September 13, 2001, to Greg Selbo<br>Economic development corporation is agent of public entity – nine factors.   |
| N.D.A.G. 2001-O-10 | September 7, 2001, to Lamont and Van de Streek Economic development corporation is agent of public entity.  |
| N.D.A.G. 2001-O-04 | May 16, 2001, to Laurel Forsberg<br>Advertising firm under contract.  |
| N.D.A.G. 99-O-02   | April 5, 1999, to Steve Spilde Government self-insurance pool.  |
| N.D.A.G. 98-O-04   | March 3, 1998, to Norbert Sickler and Franklin Appledorn Joint enterprise of several counties.  |
| N.D.A.G. Letter    | August 2, 1991, to Ken Solberg<br>Government self-insurance pool.   |
| N.D.A.G. Letter    | November 20, 1987, to Lawrence DuBois<br>Entities created by governmental process are public entities.  |
| N.D.A.G. Letter    | February 23, 1978, to Russell Staiger State planning division is a public entity.   |

## **PUBLIC SERVICE COMMISSION**

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| N.D.A.G. 67-173 | May 10, 1967, to Ben Wolf<br>The PSC is subject to N.D.C.C. § 44-04-18. |
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## REASONABLE FEE

### SEE FEES FOR ACCESS AND COPIES

## RECORD, DEFINED

|                    |   |
|--------------------|---|
| N.D.A.G. 2024-O-03 | January 9, 2024, to North Dakota Board of Chiropractic Examiners Clarifies N.D.C.C. § 43-06-14.1(7), stating that this subsection only applies in relation to a peer review committee or the anticipation of the creation of a peer review committee. |
| N.D.A.G. 2024-O-02 | January 3, 2024, to City of Mandan Fire Department<br>The personal water bill of the City of Mandan Fire Chief is not a public record and therefore not subject to open records laws.   |
| N.D.A.G. 2023-O-07 | November 20, 2023, to Morton County State's Attorney's Office<br>A public entity is not required to provide records they do not possess and are not prepared in connection with or relation to public business.                                       |
| N.D.A.G. 2014-O-20 | November 21, 2014, to Office of the State Tax Commissioner<br>Definition of "record" includes text messages in possession of employees of public entities related to public business.   |
| N.D.A.G. 2009-O-08 | June 15, 2009, to University of North Dakota Alumni Association and University of North Dakota Foundation<br>Public records in the possession of an agent of a public entity must be disclosed unless they are exempt or confidential.                |
| N.D.A.G. 2008-O-07 | March 20, 2008, to Workforce Safety and Insurance<br>E-mails that relate to public business kept on private computers are subject to the open records law.  |
| N.D.A.G. 2007-O-07 | April 24, 2007, to Coolin Township<br>A record does not include unrecorded thought processes or mental impressions.   |
| N.D.A.G. 2004-O-23 | October 27, 2004, to Stark County<br>Marriage records in county recorder's office.  |
| N.D.A.G. 2003-O-04 | February 25, 2003, to City of Fargo<br>E-mails contained on a computer's electronic backup system are records in the possession of a public entity.   |
| N.D.A.G. 2002-L-41 | July 12, 2002, to John Warcup City's<br>real property appraisal.  |
| N.D.A.G. 98-L-128  | September 2, 1998, to Jeff Rotering<br>Link or association between record and entity's public business.   |
| N.D.A.G. 98-L-73   | June 8, 1998, to Jim Heck Ownership<br>not required.  |
| N.D.A.G. 98-F-11   | April 30, 1998, to Mark Blumer<br>Resumes and job applications.   |
| N.D.A.G. 97-F-06   | September 10, 1997, to Sparb Collins<br>"Record" means each item of recorded information.   |

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| N.D.A.G. 94-L-103 | April 14, 1994, to Wayne Hokenson<br>City checkbook is an open record (but see N.D.A.G. 2000-L-107 June 28, 2000, to Lisa Gibbens). |
| N.D.A.G. 94-L-90  | April 4, 1994, to Jim Yockim<br>Settlement agreement with county official.  |
| N.D.A.G. Letter   | September 9, 1992, to Lonnie Olson<br>Videotape of person arrested for DUI is a record.   |
| N.D.A.G. Letter   | October 8, 1991, to Charlie Whitman<br>Open records law applies to computer records.  |
| N.D.A.G. Letter   | March 19, 1990, to Janet Wentz<br>Open records law does not apply to unwritten mental or thought processes.                         |
| N.D.A.G. Letter   | April 21, 1988, to R.L. Rayl<br>A copy of pre-termination letter to an employee is a record.  |
| N.D.A.G. Letter   | March 14, 1985, to Rick Bock<br>Definition of "record" under N.D.C.C. ch. 54-46 does not apply to the open records law.             |
| N.D.A.G. 85-03    | January 22, 1985, to John Richardson<br>"Record" includes private investigator's report on a faculty member.                        |
| N.D.A.G. 62-118   | January 12, 1962<br>"Record" does not include every scrap of material in possession of a public official.                           |
| N.D.A.G. 58-148   | June 4, 1958<br>"Record" includes official documents, reports, and day-to-day correspondence.                                       |

## RECORD RETENTION

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| N.D.A.G. 2003-O-04 | February 25, 2003, to City of Fargo<br>Once an e-mail is deleted from a computer's electronic backup system, it is no longer in the possession of the public entity. |
| N.D.A.G. 95-L-94   | April 17, 1995, to Lt. Governor Rosemarie Myrdal<br>Record retention policy review for North Dakota Protection and Advocacy Project.                                 |
| N.D.A.G. 74-348    | December 4, 1974, to Ben Meier Microfilming<br>of state records.   |
| N.D.A.G. 73-352    | June 21, 1973, to Ben Meier<br>Transferring or loaning of records to a university.   |
| N.D.A.G. 72-343    | December 1, 1972, to William Guy Disposal of<br>records of Governor's office.  |
| N.D.A.G. 61-171    | October 3, 1961<br>Final decision on retention rests with Secretary of State as State Records Administrator.   |

## SCHOOLS

|                    |   |
|--------------------|---|
| N.D.A.G. 2013-O-08 | May 24, 2013, to North Dakota State University<br>Student discipline records are confidential under FERPA and can only be released if personally identifiable information can be properly redacted. FERPA does not allow disclosure of redacted records if the record could still be traced to individual students upon release. The educational institute must analyze whether records can be redacted to such an extent that the release would not violate FERPA. |
| N.D.A.G. 2005-O-09 | May 27, 2005, to Twin Buttes Public School Request<br>for records not required to be in writing.  |
| N.D.A.G. 2004-O-11 | May 17, 2004, to Halliday Public School Request for<br>preliminary budget that did not exist.   |
| N.D.A.G. 2004-O-07 | April 6, 2004, to Halliday Public School<br>Must make diligent search for records and disclose all relevant to request.   |
| N.D.A.G. 2003-O-01 | January 30, 2003, to Minot Public School Board<br>Contractor making energy conservation improvements is not a public entity of the school district.   |
| N.D.A.G. 2002-O-05 | April 1, 2002, to Fred Strege<br>Administrative investigation files.  |
| N.D.A.G. 2002-L-19 | April 1, 2002, to Kenneth Dalstad<br>Release of education records regarding tobacco use by minor.   |
| N.D.A.G. 2000-O-06 | May 5, 2000, to Tom Irgens<br>Letter based on bus driver's personal observations as a parent is not a FERPA record.   |
| N.D.A.G. 2000-O-04 | March 15, 2000, to Larry Geggelman<br>Non-academic records in student's permanent file.   |
| N.D.A.G. 98-L-51   | April 24, 1998, to Gary Gronberg<br>Teacher journals.   |
| N.D.A.G. 95-L-181  | July 31, 1995, to Larry Quast School<br>access to juvenile records.   |
| N.D.A.G. 94-L-278. | October 17, 1994, to Jeff Rotering<br>Assistance by school officials.   |
| N.D.A.G. Letter    | November 4, 1991, to Wayne Sanstead<br>Disclosure of communications made during school counseling session.  |
| N.D.A.G. Letter    | March 13, 1990, to Douglas Manbeck Posting<br>of deficiency list under FERPA.   |
| N.D.A.G. Letter    | January 26, 1990, to Gary Knell<br>Student survey results.  |
| N.D.A.G. Letter    | June 6, 1986, to Wayne Sanstead<br>Library records.   |
| N.D.A.G. Letter    | June 5, 1986, to Emil Riehl Log<br>book of absentee ballots.  |

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| N.D.A.G. 84-37  | November 14, 1984, to Lee Christofferson<br>Interview of child at school regarding report of abuse or neglect. |
| N.D.A.G. 81-130 | December 7, 1981, to Jan Dykshoorn Student<br>directory information.   |

## SECRETARY OF STATE

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| N.D.A.G. Letter | December 18, 1992, to Rosellen Sand<br>Financial information in reports filed with Secretary of State. |
| N.D.A.G. 74-606 | April 8, 1974, to Ben Meier<br>Disposition of UCC financing statements.                                |
| N.D.A.G. 72-340 | October 11, 1972, to Martin Gronvold<br>Records of conveyance of property by the State.                |
| N.D.A.G. 62-46  | May 4, 1962<br>Annual corporate reports.   |
| N.D.A.G. 57-148 | August 22, 1957 Search<br>fees.  |
| N.D.A.G. 56-139 | August 13, 1956<br>Review of document by Secretary of State.   |

## TAX RECORDS

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|--------------------|---|
| N.D.A.G. 2003-O-11 | September 4, 2003, to State Tax Commissioner<br>Names of companies contracted with North Dakota under Streamlined Sales Tax Project confidential. |
| N.D.A.G. 2001-L-36 | September 14, 2015, to Robert Peterson<br>Review of income tax confidentiality under N.D.C.C. § 57-38-57.   |
| N.D.A.G. 71-408    | November 22, 1971, to Byron Dorgan Privacy<br>of income tax returns.  |
| N.D.A.G. 68-301    | February 6, 1968, to Edwin Sjaastad<br>Preservation of tax records.   |
| N.D.A.G. 66-370    | May 25, 1966, to Edwin Sjaastad<br>Privacy of tax returns.  |
| N.D.A.G. 64-404    | July 31, 1964, to Lloyd Omdahl<br>Disclosure of a list of taxpayers.  |
| N.D.A.G. 58-149    | March 21, 1958<br>Disclosure of whether a person has filed a return.  |

## TOXICOLOGIST

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| N.D.A.G. 73-488 | November 28, 1973, to N.G.S. Rao<br>Disclosure of deceased person's blood alcohol tests. |
| N.D.A.G. 67-129 | April 13, 1967, to Richard Prouty<br>Confidentiality of test results of blood specimens. |

## TRADE SECRETS

including economic development records, proprietary, commercial, and financial information

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| N.D.A.G. 2017-O-01  | March 10, 2017, to University of North Dakota<br>Agent presented articulated reasoning and facts to support the conclusion that preliminary designs, if released, would cause substantial competitive injury to the agent and were therefore considered proprietary and trade secret information.   |
| N.D.A.G. 2016-O-03  | January 25, 2016, to North Dakota State University Alumni Association and Development Foundation<br>The entity claiming records are confidential "trade secrets" must show it derives independent, economic value from the information.   |
| N.D.A.G. 2014-O-02  | February 3, 2014, to North Dakota Mill and Elevator Association<br>North Dakota Mill and Elevator Association's customer information, including the customer list and transaction information, was confidential "commercial information" because disclosure of the requested information would cause substantial competitive injury.  |
| N.D.A.G. 2011-O-09  | June 29, 2011, to Bank of North Dakota<br>Bank of North Dakota is a financial institution that is subject to statutory and federal law that requires it keep the "commercial or financial information of a customer" confidential. Industrial Commission, as governing body to BND, is bound by confidential requirements of same law with the exception of certain loan information that is specifically authorized to be released by the Industrial Commission under statute. |
| N.D.A.G. 2005-O-06  | May 11, 2005, to Napoleon Economic Dev. Corp.<br>Exempt economic development information may be redacted.   |
| N.D.A.G. 2004-L-25  | April 1, 2004, to Sen. Ray Holmberg<br>Booklist compiled by Barnes & Noble a trade secret.  |
| N.D.A.G. 2002-O-09  | September 17, 2002, to Van de Streek, Boughey, and Lee<br>Trade secrets and commercial information are of a privileged nature, competitive disadvantage if disclosed.   |
| N.D.A.G. 2002-O-08  | July 19, 2002, to David Sprynczynatyk<br>State Department of Transportation's contractor payroll reports - not commercial or financial information.   |
| N.D.A.G. 2001-O-11  | September 13, 2001, to Greg Selbo<br>Summary of exceptions for economic development corporation.  |
| N.D.A.G. 2000-L-107 | June 28, 2000, to Lisa Gibbens Personal<br>financial information.   |
| N.D.A.G. 2000-O-07  | June 26, 2000, to Tim Priebe Economic<br>development.   |
| N.D.A.G. 98-O-22    | October 16, 1998, to Roger Gress and Timothy Davies Customer<br>names.  |
| N.D.A.G. 98-L-77    | June 17, 1998, to Douglas Johansen<br>Competitive injury.   |
| N.D.A.G. 98-L-17    | March 2, 1998, to Carol Olson<br>Definitions of "commercial," "financial," and "of a privileged nature".  |

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| N.D.A.G. 98-O-03  | February 20, 1998, to Glenn Giese and Lester Brackel<br>Previous public disclosure.  |
| N.D.A.G. 95-L-253 | November 8, 1995, to Bryan Dvirnak North<br>Dakota Development Fund records.   |
| N.D.A.G. 94-L-194 | August 1, 1994, to Shirley Dykshoorn<br>Discretion of administrator to disclose exempt records; meaning of<br>"privileged and confidential" records. |
| N.D.A.G. 94-L-01  | January 3, 1994, to Charles Isakson<br>Two agencies possessing the same exempt records each has discretion to release.                               |
| N.D.A.G. 93-L-204 | June 25, 1993, to Deborah Fohr Levchak<br>Technology Transfer, Inc.  |
| N.D.A.G. Letter   | December 18, 1992, to Rosellen Sand<br>Annual reports to Secretary of State.   |
| N.D.A.G. Letter   | December 10, 1986, to William Patrie University<br>research projects for private firm.   |
| N.D.A.G. 85-24    | June 12, 1985, to Janet Elkin<br>Trade secrets under N.D.C.C. ch. 47-25.1 may still be subject to the open<br>records law.                           |

## TRANSPORTATION, DEPARTMENT OF

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| N.D.A.G. 2013-L-01 | January 23, 2013, North Dakota Department of Transportation<br>Motor vehicle accident records generated pursuant to statute are open records,<br>including identifying, personal information, for the operators and owners of the<br>vehicles involved in the accident. Only the portion of the report that provides the<br>law enforcement officer's opinion as to fault or responsibility of the accident is<br>confidential. |
| N.D.A.G. 2007-O-03 | March 1, 2007, to North Dakota Department of Transportation<br>The DOT may require a completed request form only for two specific types of<br>records.  |
| N.D.A.G. 2002-O-08 | July 19, 2002, to David Sprynczynatyk<br>Contractor payroll reports.  |
| N.D.A.G. 98-F-13   | May 12, 1998, to Johanna Zschomler<br>Highway safety records.   |
| N.D.A.G. 97-L-13   | January 29, 1997, to Gerald Sveen<br>Notice of procedure to withhold personal driver information.   |
| N.D.A.G. 96-L-232  | December 3, 1996, to J. Thomas Traynor<br>Local copy of accident report (superseding N.D.A.G. 96-L-119 June 5, 1996, to<br>J. Thomas Traynor).  |
| N.D.A.G. 96-L-119  | June 5, 1996, to J. Thomas Traynor<br>Local copy of accident report (superseded by N.D.A.G. 96-L-232<br>December 3, 1996, to J. Thomas Traynor).  |
| N.D.A.G. Letter    | December 19, 1983, to Duane Liffbrig<br>Agency may only charge its actual costs for releasing information in bulk.  |

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| N.D.A.G. 72-356 | May 22, 1972, to Robert Brady<br>Access to accident reports by Unsatisfied Judgment Fund. |
| N.D.A.G. 64-152 | March 9, 1964<br>Access to highway department records.                                    |

## UNREASONABLE DELAY

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| N.D.A.G. 2025-O-09 | June 10, 2025, to Tioga Airport Authority<br>The entity violated North Dakota law by failing to properly notify required parties of a special meeting and by not responding to a records request in a timely manner.   |
| N.D.A.G 2025-O-08  | March 7, 2025, to City of Mandan<br>The entity violated open records law by failing to respond to a records request within a reasonable time, allowing over two months to pass before issuing a response—an unreasonable delay, even if unintentional  |
| N.D.A.G 2025-O-06  | March 7, 2025, to Apple Creek Township<br>The entity complied with notice requirements for its meeting. However, it violated open records law by failing to provide requested records within a reasonable time, with delays ranging from nine days to nearly seven weeks without adequate justification.   |
| N.D.A.G 2025-O-04  | March 6, 2025, to Harrison Township<br>The entity violated open records law by failing to respond to a records request within a reasonable time—taking over a month to provide requested meeting minutes without adequate justification  |
| N.D.A.G. 2023-O-06 | November 20, 2023, to North Dakota Board of Chiropractic Examiners<br>Delay of twenty-one days was reasonable to call a special meeting because board had not delegated authority to the executive director to exempt records.   |
| N.D.A.G. 2022-O-12 | September 29, 2022, to North Prairie Regional Water District<br>The Board violated open records laws when, without explanation, it took over a month to provide meeting minutes.   |
| N.D.A.G. 2022-O-01 | January 19, 2022, to Stark County Board of Commissioners<br>A public entity has an obligation to provide requested records within a reasonable time and to communicate the reason for any delay in responding. Denial of a request does not need to cite the specific legal authority for the denial; however, the legal reason for the denial must be described. When the entity became aware they improperly denied records, based on new information, they provided the proper records. |
| N.D.A.G. 2019-O-09 | May 24, 2019<br>Generally, an entity’s response to a records request cannot be extended until the next scheduled meeting of the governing body. However, when specific laws authorize a governing body to deem certain records confidential, it is not a violation of open records law to extend the response until after the governing body meets to determine the status of the record and review a request for confidentiality.   |
| N.D.A.G. 2019-O-02 | April 11, 2019<br>It was an unreasonable delay when no work was done on responding to a records request for eight days.  |

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| N.D.A.G. 2018-O-23 | <p>December 10, 2018</p> <p>Although at the time of the request the DCIL was understaffed, working on other issues, and attempting to respond to various other request from the requestor, a two week delay in responding that no records were available is unreasonable.</p> |
| N.D.A.G. 2018-O-21 | <p>December 10, 2018</p> <p>Generally, a four week time frame to compile, review, and produce 1,400 records would be reasonable but in this case, the request only asked for one record. The unintentional misinterpretation resulted in an unreasonable delay.</p>           |
| N.D.A.G. 2017-O-09 | <p>November 1, 2017, Office of Attorney General</p> <p>Open records law looks at when the public entity receives a request, not the date a request was allegedly mailed, in determining whether records were provided in a reasonable time.</p>                               |



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| N.D.A.G. 2017-O-06 | <p>August 23, 2017, to Foster County Resource Board</p> <p>Although commendable to go above and beyond providing proof that records do not exist, if this results in an unreasonable delay in providing a response to the requestor it violates open records law.</p>  |
| N.D.A.G. 2016-O-08 | <p>April 25, 2016, to City of Golva</p> <p>Failure to check a city's active email account resulted in an unreasonable delay of providing requested and readily available records.</p>  |
| N.D.A.G. 2014-O-06 | <p>July 14, 2014, to North Dakota Industrial Commission</p> <p>When determining the reasonableness of a response to a records request, this office considers the circumstances of the particular request, including the workload of the staff, the volume of records requested, and the amount of time needed to review for confidential information.</p>  |
| N.D.A.G. 2013-O-17 | <p>November 8, 2013, to City of Golva</p> <p>Three month delay was unreasonable. Being unfamiliar with a city employee's obligation under open records law does not excuse the lengthy delay.</p>  |
| N.D.A.G. 2013-O-15 | <p>September 5, 2013, to City of Lincoln - Lincoln Police Department</p> <p>There are several factors that are considered when determining whether a delay in providing records was reasonable including the work load and other responsibilities of those who have access to the records and the need to consult with the entity's attorney as to whether the records are open.</p>   |
| N.D.A.G. 2013-O-14 | <p>August 28, 2013, to Griggs County Commission</p> <p>An unreasonable delay in providing requested records may occur even if the records are not in the entity's possession and allegedly not subject to open records law, if this reasoning is not communicated to the requestor.</p> <p>The time it takes to sort through multiple record requests from a requestor and the time it takes to draft minutes are factors to be considered when analyzing whether records were provided within a reasonable time.</p>  |
| N.D.A.G. 2012-O-07 | <p>August 2, 2012, to Dresden Township</p> <p>In determining the reasonableness of a response, circumstances of a particular request are considered. Under most circumstances, one month delay in providing copies of requested records would be unreasonable, but in this situation and under the unique circumstances to a rural township, delay was reasonable.</p>   |
| N.D.A.G. 2011-O-07 | <p>May 26, 2011, to City of Dickinson's Human Relations Commission</p> <p>Although law does not usually require an immediate response, the delay in providing records generally will be measured in a few hours or a few days rather than several days or weeks. A significant delay in responding to a request for records has been found reasonable in circumstances where the request was for a large number of records, where closed or confidential information had to be excised, or where other responsibilities of the public entity demanded immediate attention.</p> |

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| N.D.A.G. 2010-O-04 | <p>April 20, 2010, to North Dakota State University Research &amp; Technology Park</p> <p>Public entity must provide access or copies of records within a reasonable time, which need not always be immediate, but will depend on facts of given situation. A number of circumstances, including balancing other responsibilities of the public entity that demand immediate attention, could reasonably delay providing records in response to request.</p>   |
| N.D.A.G. 2010-O-02 | <p>February 26, 2010, to Pembina County Emergency Management Office</p> <p>Even if a public entity does not have the requested records, it must explain to requestor that records do not exist or are not being provided within a "reasonable time." Reasonableness is based on volume and complexity of request and other circumstances or responsibilities that may demand entity's immediate attention. If crisis or workload of entity prevents it from immediately searching for records, entity should advise requester.</p> |
| N.D.A.G. 2009-O-07 | <p>June 4, 2009, to Department of Human Services</p> <p>A record was not provided within a reasonable time.</p>  |
| N.D.A.G. 2009-O-01 | <p>February 2, 2009, to North Dakota State University</p> <p>It was not an unreasonable delay to withhold a draft lease until work was completed on it.</p>  |
| N.D.A.G. 2008-O-25 | <p>October 31, 2015, to Cavalier Fire Department</p> <p>A public entity must keep track of all open records requests, make a diligent search for records, and respond in a reasonable amount of time.</p>  |
| N.D.A.G. 2008-O-20 | <p>August 1, 2008, to Workforce Safety and Insurance</p> <p>A delay of 160 days from the date of the request was unreasonable.</p>   |
| N.D.A.G. 2008-O-19 | <p>July 15, 2008, to Foster County</p> <p>An estimate of one year to provide copies of 800 records is unreasonable.</p>  |
| N.D.A.G. 2008-O-14 | <p>June 24, 2008, to Dickinson State University</p> <p>The university did not unreasonably delay providing the records when the delay that occurred was due to the requester refusing to pay the statutorily allowed charges</p>   |
| N.D.A.G. 2008-O-12 | <p>June 23, 2008, to Round Prairie Township</p> <p>The township did not provide copies of minutes within a reasonable time when it took four months to tell the requester that the minutes could not be provided because they had been stolen.</p>   |
| N.D.A.G. 2008-O-06 | <p>March 14, 2008, to Cavalier Fire Department and Cavalier Rural Fire Department</p> <p>Delay of 23 days (16 working days) an unreasonable delay.</p>   |
| N.D.A.G. 2008-O-08 | <p>April 2, 2008, to Pierce County Social Services</p> <p>When a public entity receives a request for records, it must either provide those records or explain why the records are not being provided within a reasonable time. Although commendable for a public entity to attempt to obtain records the entity does not have from another source, a long delay may still be unreasonable.</p>  |

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| N.D.A.G. 2007-O-12 | <p>September 5, 2007, to Bismarck Park District</p> <p>The Bismarck Park District delayed its response to a record request because it believed the request was a directive from a member of a joint special committee and did not fall under the open records laws. Upon a second request one month later but marked “personal”, the Park Board provided records within 3 days.</p> |
| N.D.A.G. 2007-O-11 | <p>August 3, 2007, to City of Mandan</p> <p>It was an unreasonable delay not to explain for months that the requested record did not exist. Fear that a record may be misinterpreted is not a legitimate reason to delay providing a requested record.</p>  |
| N.D.A.G. 2007-O-10 | <p>June 26, 2007 to Kathryn City Council</p> <p>A copy of minutes must be provided even though the minutes are also published in the newspaper.</p>   |
| N.D.A.G. 2007-O-06 | <p>April 17, 2007, to Burleigh County Commission</p> <p>Two weeks to respond to a request for records is too long.</p>  |
| N.D.A.G. 2006-O-15 | <p>December 18, 2006, to Bismarck Parks and Recreation District</p> <p>An entity cannot delay responding to a request for records simply because the entity head is out of the office.</p>  |
| N.D.A.G. 2006-O-08 | <p>May 4, 2006, to North Dakota Stockmen’s Association</p> <p>An entity seeking legal advice about a request for records still must respond in a timely manner.</p>   |
| N.D.A.G. 2006-O-01 | <p>January 9, 2006, to NDSU Research Foundation</p> <p>Unreasonable delay when the Foundation took six months to provide records to the Dakota Resource Council.</p>  |
| N.D.A.G. 2005-O-09 | <p>May 27, 2005, to Twin Buttes Public School</p> <p>Delay of two and one half months unreasonable.</p>   |
| N.D.A.G. 2005-O-05 | <p>March 30, 2005, to NDSU</p> <p>Unreasonable delay when entity continuously tried to limit the request.</p>   |
| N.D.A.G. 2005-O-01 | <p>January 10, 2005, to City of Napoleon</p> <p>Unreasonable delay when city missed appointment to allow requestor access to records.</p>   |
| N.D.A.G. 2004-O-20 | <p>September 7, 2004, to City of Napoleon</p> <p>Unreasonable delay when requestor had to ask four times for access to records.</p>   |
| N.D.A.G. 2004-O-07 | <p>April 6, 2004, to Halliday Public School</p> <p>Delay of 12 days to send 6 records unreasonable.</p>   |
| N.D.A.G. 2004-O-05 | <p>February 17, 2004, to Grand Forks County Planning &amp; Zoning Department</p> <p>Delay was not unreasonable when several factors were considered.</p>  |
| N.D.A.G. 2003-O-21 | <p>December 1, 2003, to Department of Human Services</p> <p>Five days to provide records not unreasonable.</p>  |
| N.D.A.G. 2003-O-19 | <p>November 12, 2003, to Northwood Park Board</p> <p>Delay of four months unreasonable.</p>   |
| N.D.A.G. 2003-O-17 | <p>October 31, 2003, to City of Grand Forks</p> <p>Couple of months to respond to a request is unreasonable.</p>  |

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| N.D.A.G. 2003-O-09 | August 27, 2003, to North Dakota Game & Fish Department Three months to provide records unreasonable.   |
| N.D.A.G. 2002-O-08 | July 19, 2002, to David Sprynczynatyk Delay of 37 days was unreasonable.  |
| N.D.A.G. 2002-O-06 | June 27, 2002, to Fabian Noack Delay of month and a half was unreasonable.  |
| N.D.A.G. 2002-O-03 | February 11, 2002, to Fabian Noack Delay of two months was unreasonable.  |
| N.D.A.G. 2001-O-12 | September 26, 2001, to Randall Sickler Delay when requester indicates he will pick up the requested records.  |
| N.D.A.G. 2001-O-04 | May 16, 2001, to Laurel Forsberg Delay to seek legal advice on disclosing records was unreasonable when requested records did not exist and legal advice was unnecessary. |
| N.D.A.G. 2001-O-02 | April 5, 2001, to Gary Thune Delay of response until the next meeting of a governing body was unreasonable.   |
| N.D.A.G. 98-O-22   | October 16, 1998, to Roger Gress and Timothy Davies Length of delay.  |
| N.D.A.G. 98-O-20   | September 15, 1998, to Every and Mitzel Delay of month and a half was unreasonable.   |
| N.D.A.G. 98-O-19   | August 12, 1998, to Mullenberg and Noack Delay of more than two weeks for minutes was unreasonable.   |
| N.D.A.G. 98-O-04   | March 3, 1998, to Sickler and Appledorn Delay usually measured in a few days or a week.   |
| N.D.A.G. 98-O-03   | February 20, 1998, to Giese and Brackel Factors to consider.  |
| N.D.A.G. 97-O-01   | November 10, 1997, to Harvey and Burke Immediate access; outside office hours.  |

## VETERANS

|                 |   |
|-----------------|---|
| N.D.A.G. 81-08  | February 5, 1981, to Lloyd Zander Records of the Department of Veterans' Affairs. |
| N.D.A.G. 68-525 | November 6, 1968, to Richard Thomas Discharge and separation papers.              |
| N.D.A.G. 50-199 | October 18, 1950 Free copies of public records.                                   |
| N.D.A.G. 49-196 | April 30, 1949 Free copy of discharge papers.                                     |
| N.D.A.G. 45-302 | December 18, 1945 Recording of discharge papers.                                  |

## **WORKFORCE SAFETY AND INSURANCE**

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| N.D.A.G. 98-F-22  | June 23, 1998, to Lois Delmore Administrative hearings.  |
| N.D.A.G. 96-L-16  | February 8, 1996, to Marv Mutzenberger<br>Certificate of premium payment and employer's report.  |
| N.D.A.G. 95-L-146 | June 21, 1995, to Marv Mutzenberger<br>List of employers implementing a risk management program. |
| N.D.A.G. Letter   | September 10, 1992, to Helen Tracy<br>Information open to the public under N.D.C.C. § 65-05-325. |
| N.D.A.G. 85-23    | June 12, 1985, to James Sperry Information in<br>minute record is confidential.                  |
| N.D.A.G. 67-354   | August 23, 1967, to Agnes Geelan<br>Furnishing information to vocational rehabilitation agency.  |
| N.D.A.G. 66-502   | May 9, 1966, to E. Odin Sjaastad Awards of<br>benefits.  |
| N.D.A.G. 64-287   | June 8, 1964<br>Disclosure to tax commissioner.  |
| N.D.A.G. 62-280   | November 30, 1962<br>Release of medical information.   |
| N.D.A.G. 42-71    | September 4, 1942 Confidential<br>correspondence.  |

## **WORKING PAPERS**

**SEE PRELIMINARY DRAFTS AND WORKING PAPERS**