



STATE OF NORTH DAKOTA  
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**Drew H. Wrigley**  
ATTORNEY GENERAL

**OPEN RECORDS AND MEETINGS OPINION**  
**2025-O-26**

DATE ISSUED: December 23, 2025

ISSUED TO: Killdeer Area Ambulance Service

**CITIZEN'S REQUEST FOR OPINION**

Debra Biffert requested an opinion from this office under N.D.C.C. § 44-04-21.1 regarding whether Killdeer Area Ambulance Service failed to notice special meetings held on July 18, 2023, and July 30, 2023, and improperly denied a request for records in violation of N.D.C.C. §§ 44-04-20 and 44-04-18.

**FACTS PRESENTED**

The Killdeer Area Ambulance Service ("KAAS") held special meetings on July 18, 2023, and July 30, 2023, at the Killdeer Ambulance Station.<sup>1</sup> The day prior to the July 18, 2023, meeting, KAAS's president posted the agenda at the KAAS Ambulance Station, and the Dunn County Auditor's Office.<sup>2</sup> The notice for the July 18, 2023, meeting was not successfully transmitted to *The Dickinson Press* because the email with the notice stayed in the KAAS email account's outbox until after the meeting occurred.<sup>3</sup> The email was drafted, the "send" button had been clicked, the email was queued to send before the meeting, but, unknown to KAAS, technical difficulties prevented the email from actually being sent until later.<sup>4</sup> No person had requested to be notified of KAAS meetings.<sup>5</sup>

For the second meeting held on July 30, 2023, notice was posted at the meeting location and the Dunn County Auditor's office by approximately 5:00 p.m. on July 29, 2023.<sup>6</sup> The meeting notice was successfully transmitted to *The Dickinson Press* the day before the meeting.<sup>7</sup> And like the

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<sup>1</sup> Email from Tracey Dolezal, President, Killdeer Area Ambulance Serv., to Annique M. Lockard, Assistant Att'y Gen., Off. of Att'y Gen. (Oct. 20, 2023, 2:45 PM ); Notice of Meeting, Killdeer Area Ambulance Serv. (July 18, 2023); Public Notice, Killdeer Area Ambulance Bd. of Dirs. (July 30, 2023).

<sup>2</sup> Email from Tracey Dolezal, President, Killdeer Area Ambulance Serv., to Annique M. Lockard, Assistant Att'y Gen., Off. of Att'y Gen. (Oct. 20, 2023, 2:45 PM ).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

prior meeting, no one had requested notice of KAAS's meetings.<sup>8</sup> The purpose of the July 30, 2023, meeting was to terminate the employment of KAAS's billing specialist and to eliminate the position of billing specialist.<sup>9</sup>

On August 1, 2023, Robert Ingold requested a copy of the meeting minutes that were approved at the meeting the night before and a copy of the severance agreement for the fired billing specialist.<sup>10</sup> KAAS provided copies of the July 18, and 30, 2023, minutes but denied the request for the severance agreement, stating that "Pursuant to NDCC section 44-04 we are not at liberty to release information from employee personnel files."<sup>11</sup> However, KAAS ultimately disclosed the severance agreement on or around October 20, 2023.<sup>12</sup> In the meantime, Debra Biffert made a timely request for an opinion from this office regarding both the sufficiency of the notices for the special meetings and the denial of the request for the severance agreement to Mr. Ingold.<sup>13</sup>

### ISSUES

1. Whether KAAS provided notice of its July 18, 2023, special meeting in substantial compliance with N.D.C.C. § 44-04-20.
2. Whether KAAS provided notice of its July 30, 2023, special meeting in substantial compliance with N.D.C.C. § 44-04-20.
3. Whether KAAS provided records responsive to a request within a reasonable time in substantial compliance with N.D.C.C. § 44-04-18.

### ANALYSIS

#### Issue One

"The open meetings law applies to rural ambulance service districts and the boards that serve them because the districts are created by statute to exercise public authority or perform a

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<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> Email from Robert Ingold to Dustin Lien (Aug. 1, 2023, 8:13 AM).

<sup>11</sup> Email from Dustin Lien to Robert Ingold (Aug. 1, 2023, 3:02 PM).

<sup>12</sup> Email from Tracey Dolezal, President, Killdeer Area Ambulance Serv., to Annique M. Lockard, Assistant Att'y Gen., Off. of Att'y Gen. (Oct. 20, 2023, 2:45 PM); Email from Tracey Dolezal, President, Killdeer Area Ambulance Serv., to Robert Ingold (Oct. 20, 2023, 1:32 PM).

<sup>13</sup> Email from Debra Biffert to Att'y Gen. Wrigley, Att'y Gen., Off. of Att'y Gen. (Aug. 13, 2023, 12:55 AM CDT). Ms. Biffert clarified to this office that she is friends with Mr. Ingold and that they combined the issues of the notice sufficiency and denial of the records request for efficiency purposes. Email from Debra Biffert to Annique M. Lockard, Assistant Att'y Gen., Off. of Att'y Gen. (Oct. 4, 2023, 12:03 PM).



governmental function.”<sup>14</sup> KAAS is a rural ambulance service ambulance district created under N.D.C.C. ch. 11-28.3 and is a public entity subject to the open meeting and open record laws.<sup>15</sup> A governing body of a public entity must give advance notice of its meetings unless otherwise provided by law.<sup>16</sup> Notice of a meeting must be posted at the principal office of the governing body, if such an office exists, and at the location of the meeting on the day of the meeting.<sup>17</sup> Entities that are neither a state-level nor city-level entity must file the meeting notice with the county auditor or designee of the county.<sup>18</sup> Notice must be provided to anyone who requests notice of the meetings.<sup>19</sup> If the public entity has a website, notice also must be posted on its website.<sup>20</sup> For special meetings, notice must also be given to the public entity’s official newspaper.<sup>21</sup> This office has previously held, notifying “the official newspaper is an important requirement for special meetings because it compensates for the possibility that the public may not be aware of the special meeting.”<sup>22</sup>

Here, KAAS posted the agenda for the meeting at the location of the meeting, and it provided notice to the county auditor for the July 18, 2023 meeting.<sup>23</sup> KAAS does not have a website to

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<sup>14</sup> N.D.A.G. 2011-O-03, *citing* N.D.A.G. 2010-O-14; *see also* N.D.C.C. §§ 11-28.3-06 and 11-28.3-07.

<sup>15</sup> N.D.C.C. § 44-04-17.1(11) (defining political subdivision to include rural ambulance service district); N.D.C.C. § 44-04-17.1(13)(b) (defining public entity to include political subdivisions); Email from Tracey Dolezal, President, Killdeer Area Ambulance Serv., to William D. Woodworth, Assistant Att’y Gen., Off. of Att’y Gen. (Oct. 29, 2025, 9:03 PM). Killdeer Area Ambulance Serv. is also organized as a non-profit corporation organized under N.D.C.C. ch. 10-33. Email from Tracey Dolezal, President, Killdeer Area Ambulance Serv., to William D. Woodworth, Assistant Att’y Gen., Off. of Att’y Gen. (Oct. 29, 2025, 9:03 PM). The term public entity also includes organizations or entities supported in whole or in part by public funds, which Killdeer Area Ambulance Serv. is. N.D.C.C. § 44-04-17.1(13)(c); Email from Tracey Dolezal, President, Killdeer Area Ambulance Serv., to William D. Woodworth, Assistant Att’y Gen., Off. of Att’y Gen. (Oct. 29, 2025, 9:03 PM). I advise Killdeer Area Ambulance Serv. contact legal counsel to ensure they are in full compliance with the laws governing political subdivisions and verify they are not treating public funds as if they were the funds of a non-profit corporation.

<sup>16</sup> N.D.C.C. § 44-04-20(1); N.D.A.G. 2025-O-09.

<sup>17</sup> N.D.C.C. § 44-04-20(4); N.D.A.G. 2025-O-09.

<sup>18</sup> N.D.C.C. § 44-04-20(4).

<sup>19</sup> N.D.C.C. § 44-04-20(5).

<sup>20</sup> N.D.C.C. § 44-04-20(4).

<sup>21</sup> N.D.C.C. § 44-04-20(6). N.D.A.G. 2025-O-09.

<sup>22</sup> N.D.A.G. 2025-O-09, *citing* N.D.A.G. 2016-O-17; *citing* N.D.A.G. 2010-O-07; N.D.A.G. 2005-O-20.

<sup>23</sup> Email from Tracey Dolezal, President, Killdeer Area Ambulance Serv., to Annique M. Lockard, Assistant Att’y Gen., Off. of Att’y Gen. (Oct. 20, 2023, 2:45 PM).

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post notices.<sup>24</sup> KAAS acknowledges that it failed to notify the official newspaper of the July 18, 2023, meeting due to technical difficulties which resulted in the email not being delivered as expected.<sup>25</sup> It is my opinion under these circumstances that KAAS substantially complied with N.D.C.C. § 44-04-20 when it took reasonable steps to notify its official newspaper of its July 18, 2023, special meeting, but technical difficulties prevented the email from being sent.

### Issue Two

In the case of the special meeting held on July 30, 2023, KAAS posted the agenda for the meeting at the location of the meeting, and it provided notice to the county auditor.<sup>26</sup> Unlike the July 18, 2023, meeting, KAAS successfully provided notice to the official newspaper for the July 30, 2023, meeting. It is therefore my opinion that KAAS substantially complied with N.D.C.C. § 44-04-20 when providing notice of the July 30, 2023.

### Issue Three

“Except as otherwise specifically provided by law, all records of a public entity are public records, open and accessible for inspection during reasonable office hours.”<sup>27</sup> Confidential records are “prohibited from being open to the public,”<sup>28</sup> while exempt records “may be open in the discretion of the public entity.”<sup>29</sup>

Only enumerated portions of an employee’s personnel record are confidential or exempt.<sup>30</sup> A settlement agreement is an exempt record only until it has been fully executed, unless there is another basis for the agreement to continue to be confidential or exempt.<sup>31</sup> A public entity must respond to an open records request within a reasonable time.<sup>32</sup> And a denial of a request “must describe the legal authority for the denial.”<sup>33</sup>

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<sup>24</sup> Email from Tracey Dolezal, President, Killdeer Area Ambulance Serv., to William D. Woodworth, Assistant Att’y Gen., Off. of Att’y Gen. (Oct. 29, 2025, 9:03 PM).

<sup>25</sup> Email from Tracey Dolezal, President, Killdeer Area Ambulance Serv., to Annique M. Lockard, Assistant Att’y Gen., Off. of Att’y Gen. (Oct. 20, 2023, 2:45 PM).

<sup>26</sup> *Id.*

<sup>27</sup> N.D.C.C. § 44-04-18(1).

<sup>28</sup> N.D.C.C. § 44-04-17.1(3).

<sup>29</sup> N.D.C.C. § 44-04-17.1(5).

<sup>30</sup> *See* N.D.C.C. § 44-04-18.1.

<sup>31</sup> N.D.C.C. § 44-04-19.1(11).

<sup>32</sup> N.D.C.C. § 44-04-18(8); N.D.A.G. 2025-O-09, *citing* N.D.A.G. 2022-O-12; *citing* N.D.C.C. § 44-04-18(8); N.D.A.G. 2019-O-15.

<sup>33</sup> N.D.C.C. § 44-04-18(7).

KAAS provided the minutes of the July 18, and 30, 2023, meetings on the same day Mr. Ingold made the request.<sup>34</sup> On behalf of KAAS, Dustin Lien cited “NDCC section 44-04” as the justification for denying the release of the employee severance agreement.<sup>35</sup> The reference to “section 44-04” is not a reference to a specific section or statute; it is an entire chapter of the North Dakota Century Code. KAAS now acknowledges that it was not prohibited from disclosing the severance agreement and provided it to Mr. Ingold on or around October 20, 2023.<sup>36</sup>

The severance agreement was executed by all parties on July 29, 2023, and does not appear to contain any confidential or exempt information.<sup>37</sup> The open record was not provided to the requestor until 80 days passed.<sup>38</sup> KAAS did not cite to a specific legal authority in its denial to disclose the severance agreement, and no explanation has been provided for the delay in determining that the severance agreement could or must be disclosed. Under these circumstances, it is my opinion that KAAS violated N.D.C.C. § 44-04-18 by not responding to Mr. Ingold’s request within a reasonable time.

### CONCLUSIONS

1. KAAS provided notice of its July 18, 2023, special meeting in substantial compliance with N.D.C.C. § 44-04-20 because the failure to notify the official newspaper of the special meeting was caused by technical difficulties.
2. KAAS did provide notice of its July 30, 2023, special meeting in substantial compliance with N.D.C.C. § 44-04-20.
3. KAAS violated N.D.C.C. § 44-04-18 by not responding to an open records request within a reasonable time and failing to give the requester an explanation for the nearly 80-day delay.

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<sup>34</sup> Email from Tracey Dolezal, President, Killdeer Area Ambulance Serv., to Annique M. Lockard, Assistant Att’y Gen., Off. of Att’y Gen. (Oct. 20, 2023, 2:45 PM).

<sup>35</sup> Email from Dustin Lien to Robert Ingold (Aug. 1, 2023, 3:02 PM).

<sup>36</sup> Email from Tracey Dolezal, President, Killdeer Area Ambulance Serv., to Annique M. Lockard, Assistant Att’y Gen., Off. of Att’y Gen. (Oct. 20, 2023, 2:45 PM).

<sup>37</sup> See Severance Agreement between Ann Hafner & Killdeer Area Ambulance Serv. (July 29, 2023).

<sup>38</sup> Email from Tracey Dolezal, President, Killdeer Area Ambulance Serv., to Robert Ingold (Oct. 20, 2023, 1:32 PM).

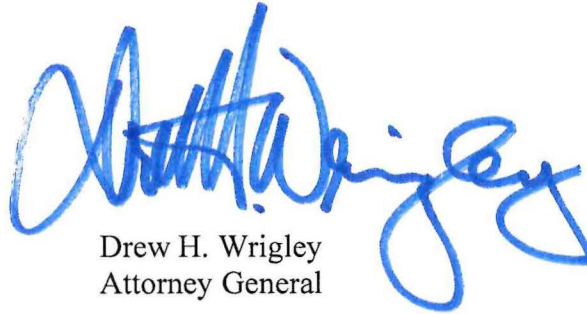


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STEPS NEEDED TO REMEDY VIOLATION

Mr. Ingold has received the requested records. Therefore, there are no further corrective measures required.



Drew H. Wrigley  
Attorney General

cc: Debra Biffert  
Robert Ingold