



STATE OF NORTH DAKOTA
OFFICE OF ATTORNEY GENERAL

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OPEN RECORDS AND MEETINGS OPINION
2026-O-06

DATE ISSUED: February 27, 2026

ISSUED TO: Morton County

CITIZEN'S REQUEST FOR OPINION

Karen Jordan requested an opinion from this office under N.D.C.C. § 44-04-21.1 asking whether Morton County violated N.D.C.C. § 44-04-18 by failing or refusing to provide records.

FACTS PRESENTED

On June 28, 2023, Karen Jordan emailed the Morton County Auditor, requesting the meeting minutes of the Morton County Housing Authority ("MCHA").¹ The Auditor responded the next day that the MCHA is a separate entity and provided Ms. Jordan with its contact information.² The Auditor then voluntarily contacted the MCHA, obtained the requested minutes, and provided them to Ms. Jordan.³

ISSUE

Whether Morton County's response to a request for records complied with N.D.C.C. § 44-04-18.

ANALYSIS

"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."⁴ Under the open records law, a public entity is required to provide access only to records in its possession or custody.⁵ A public entity is not required to create records, compile information that does not already exist, or obtain

¹ Email from Karen Jordan to Dawn R. Rhode, CPA, Morton Cnty. Auditor (June 28, 2023, 9:54 PM).

² Email from Dawn R. Rhode, CPA, Morton Cnty. Auditor, to Karen Jordan (June 29, 2023, 11:47 AM).

³ Email from Dawn R. Rhode, CPA, Morton Cnty. Auditor, to Karen Jordan (July 6, 2023, 3:42 PM).

⁴ N.D.C.C. § 44-04-18.

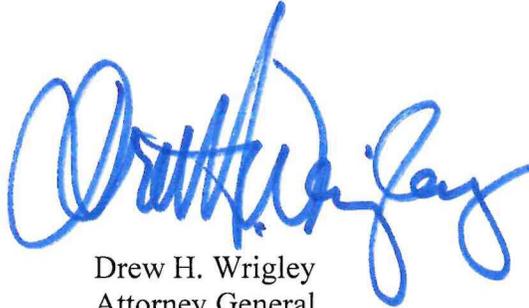
⁵ N.D.C.C. § 44-04-17.1(16) (definition of record).

records not in its possession.⁶ Each office, department, or agency within a political subdivision is responsible only for the records in its possession and has no obligation to locate or provide records held by another agency, even if both are part of the same political subdivision.⁷ When a public entity does not have the requested records, it must, within a reasonable time, inform the requester that the records are not in its possession or do not exist.⁸

Morton County complied with the open records law when the Auditor, within a reasonable time, informed Ms. Jordan that the records were not in the County's possession. Although the County Commission appoints members to the MCHA board, that relationship does not make the County the custodian of MCHA's records. Because the MCHA is a separate public entity,⁹ the open records law does not require the County to search for, obtain, or provide records maintained by that entity. The Auditor's voluntary efforts to obtain the minutes went beyond what the law requires.

CONCLUSION

It is my opinion that Morton County's response was in compliance with N.D.C.C. § 44-04-18.



Drew H. Wrigley
Attorney General

amr

cc: Karen Jordan

⁶ N.D.C.C. § 44-04-18(4); N.D.A.G. 2026-O-01, *citing* N.D.C.C. § 44-04-17.1(16); N.D.C.C. § 44-04-18(4); *see also* N.D.A.G. 2024-O-08; N.D.A.G. 2024-O-07; N.D.A.G. 2019-O-13, *citing* N.D.C.C. § 44-04-17.1(16); N.D.A.G. 2014-O-22; N.D.A.G. 2010-O-02; N.D.A.G. 2004-O-05.

⁷ N.D.A.G. 2010-O-02; N.D.A.G. 2005-O-13; N.D.A.G. 2004-O-05.

⁸ N.D.C.C. § 44-04-18; N.D.A.G. 2017-O-06; N.D.A.G. 2015-O-17; N.D.A.G. 2010-O-02; N.D.A.G. 2008-O-06.

⁹ N.D.C.C. § 23-11-02 (creating housing authorities as public bodies corporate and politic).