

FILE

Subject

Records

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Public
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By Education



STATE OF KANSAS

Office of the Attorney General

State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

VERN MILLER
Attorney General

June 11, 1974

Opinion No. 74- 194

Donald D. Gregory, Attorney
U.S.D. No. 392, Osborne County
P.O. Box 345
Osborne, Kansas 67473

Dear Mr. Gregory:

As counsel for Unified School District No. 392, you inquire concerning the availability of books of minutes of the board to the public. You inquire, first, whether such books are open to all the world, only to residents of the school district, or only to selected persons.

K.S.A. 72-8202c requires that the board appoint a clerk, to serve at the pleasure of the board. Under (b) thereof, "[t]he clerk shall keep an accurate journal of the proceedings of the board of education." K.S.A. 45-201 states in pertinent part thus:

"All official public records of the state, counties, municipalities, townships, [and] school districts . . . which records by law are required to be kept and maintained except . . . records specifically closed by law or by directive authorized by law, shall at all times be open for a personal inspection by any citizen, and those in charge of such records shall not refuse this privilege to any citizen."

Minutes of proceedings of the board are specifically required by law, i.e., K.S.A. 72-8202c, to be maintained, as an "accurate journal of the proceedings" of the board. It is, thus, a record which is required by law to be kept and maintained. As such, it is a record subject to K.S.A. 45-201, above, and is required to be at all times open for personal inspection by "any citizen." Thus, access to such books and journals cannot be restricted

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only to residents and patrons of the school district, or to persons or a class thereof designated by the board. You are certainly correct, that such records are indeed "public records."

You inquire, secondly, concerning the manner and place in which the books should be available, and the time of availability. K.S.A. 45-202 states in pertinent part thus:

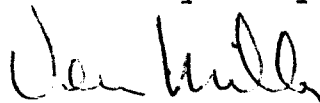
"In all cases where the public . . . has a right to inspect . . . any such public records . . . , any such person shall have the right of access to said records . . . for the purpose of making photographs of the same while in the possession, custody and control of the lawful custodian thereof, or his authorized deputy"

This section continues on to provide that the lawful custodian shall have the right to prescribe reasonable rules governing access to such records for the purpose of making copies thereof, and that such work shall be done in the place where such records are by law kept, unless impracticable or impossible, in which instance it may be done elsewhere.

To reiterate, the minutes of the board are indeed public records, and must be available to all persons for inspection. The direction of K.S.A. 45-201 that such records be available "at all times" for personal inspection does not, of course, readily lend itself to literal compliance. However, such records should be available during reasonable business hours, and the clerk, as well as the board, has an affirmative duty under this statute to assure that the records be available during reasonable hours to all persons for inspection. Under this statute, it is not within the power of the board or the clerk to require any person to show affirmative grounds for wishing to inspect any part of the records. No showing of good cause, as it were, is required by any citizen under K.S.A. 45-201 to entitle him to inspect records which by law are available to the public.

If further questions arise as the board proceeds to formulate policy in this area, please feel free to call upon us.

Yours very truly,



VERN MILLER
Attorney General

VM:JRM:jsm