

Opinion No. 69-89

August 5, 1969

BY: OPINION OF JAMES A. MALONEY, Attorney General Gary O'Dowd, Deputy Attorney General

TO: Honorable Edmundo R. Delgado, New Mexico State Senator, P.O. Box 1906, Santa Fe, N.M. 87501

QUESTIONS

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1. Are names and addresses of teachers employed in New Mexico school systems which are contained in lists compiled by the Department of Education public records?
2. If so, must the Department of Education make these records available to the public for inspection?

CONCLUSIONS

1. Yes.
2. Yes, but see analysis.

OPINION

{*141} ANALYSIS

Opinion of the Attorney General No. 67-57, dated April 6, 1967, dealt with the question of what school records could be classified as public records within the meaning of Section 71-5-1, N.M.S.A., 1953 Compilation. That opinion stated that names and salaries of teachers were matters of public record. In addition, it was stated that evaluation and "other employment material" are matters of public record.

It is reasonable to assume that addresses of teachers would be information of a type suitable for public record. The criterion for determining what information falls within the real of public record is whether the information is required by law to be kept or is necessarily kept in the discharge of a duty imposed by law. See Opinion of the Attorney General No. 67-57, **supra**. We think the addresses of public school teachers clearly fall within this category. Therefore, the answer to your first question is yes.

In answer to your second question, the statutes and previous Attorney General's opinions make it clear that the public's right to inspection is not absolute. Section 71-5-2, N.M.S.A., 1953 Comp. reads as follows:

All officers having the custody of any state, county, school, city or town records in this state shall furnish **proper and reasonable** opportunities for the inspection and examination of all the records requested of their respective offices and **reasonable facilities** for making memoranda abstracts therefrom, during the **usual business hours**, to all persons having occasion to make examination of them **for any lawful purpose**. (Emphasis added.)

This section, it should be noted, does not require the agencies furnishing the information to abstract and copy the records themselves. This burden is placed upon the individual requesting the information.

It should also be noted that the right to inspect public records does not necessarily include the right to disseminate the information contained in those records. The right of inspection is no defense to an action for invasion of privacy based upon publication of matters which an individual has the right to keep private. See Opinion of the Attorney General No. 67-57, **supra**; Opinion of the Attorney General No. 61-137, dated December 27, 1961; and Opinion of the Attorney General No. 66-131, dated December 6, 1966.