

DEPARTMENT OF JUSTICE

STATE OF NEBRASKA

TELEPHONE 402/471-2682 • STATE CAPITOL • LINCOLN, NEBRASKA 68509

PAUL L. DOUGLAS
Attorney General
GERALD S. VITAMVAS
Deputy Attorney General
JOHN R. THOMPSON
Deputy Attorney General

December 27, 1983

FOSTER CARE REVIEW BOARD

DEC 28 1983

REC-110

Carol Stitt, Executive Director
Foster Care Review Board
301 Centennial Mall South
Lincoln, Nebraska 68509

Dear Ms. Stitt:

This is in response to your letter of December 20, 1983, concerning proposed Rules and Regulations of the Department of Social Services. You specifically mentioned 474 NAC 6-021.09 entitled Discretion of the Director, and 6-021.10, entitled Failure to Safeguard and Maintain Confidentiality.

In regard to the first question, the Director of the Department of Social Services is charged with maintaining confidentiality of information regarding state wards pursuant to Neb.Rev.Stat. §§68-312 and 68-313 (1982 Supp.), §68-313.01 (1983 Supp.) and §28-713.727 (1982 Supp.). Apparently, 6-021.09 seeks to permit the Director to carry out that duty and at the same time cooperate with the Foster Care Review Board. However, a review of the applicable statutes indicates no authority for the Department of Social Services to withhold information from the Foster Care Review Board at the discretion of the Director. The language of Neb.Rev.Stat. §43-1309 is clear that "upon the request of the state board or the designated local board, any records pertaining to a case assigned to such board shall be furnished to the board by the agency charged with the child." (Emphasis supplied.) In view of this language, it is our opinion that the statute does not authorize the Director to withhold information which has been requested by the Board.

Further, based on the same rationale, it is our opinion that the statute does not permit the Department to temporarily suspend the release of information to the Board as provided for in 6-021.10D.

Assistants:

Bernard L. Packett
Mel Kammerlohr
Harold I. Mosher
Ralph H. Gillan
Terry R. Schaaf
Marilyn B. Hutchinson

Patrick T. O'Brien
J. Kirk Brown
Royce N. Harper
Sharon M. Lindgren
Ruth Anne E. Galtier
G. Roderic Anderson

Dale A. Comer
Martel J. Bundy
Mark D. Starr
Dale D. Brodkey
Frank J. Hutfless
Linda L. Willard

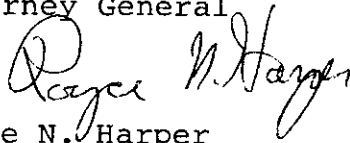
John D. Boehm
Henry M. Grether III
Michaela M. White
Calvin D. Hansen

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If you have any other questions, please feel free to contact us.

Sincerely,

PAUL L. DOUGLAS
Attorney General

A handwritten signature in cursive script, appearing to read "Royce N. Harper".

Royce N. Harper
Assistant Attorney General

RNH:jmh/L-3