

RECORDS:  
PUBLIC RECORDS:  
SCHOOLS:

The public has the right to inspect and copy the contents of the "daily register" required by Section 163.140, RSMo 1949, provided that the exercise of such right does not unduly interrupt the discharge of duties, and the board of education or the superintendent of schools do not have any discretion in permitting or denying such inspection or the right to request a statement of purpose before permitting such inspection.



May 23, 1957

Honorable Stephen M. Limbaugh  
Prosecuting Attorney  
Cape Girardeau County  
Cape Girardeau, Missouri

Dear Mr. Limbaugh:

Reference is made to your request for an official opinion, which request reads in part as follows:

"Section 163.140 Revised Statutes of Missouri 1949 provides that the teachers' daily register shall be open to the inspection of the public at all times.

There are two questions confronting the School Board that I would like to have your opinion in connection with. First, do the school officials have the right to require of one who seeks to inspect the school records a statement of his purpose? Second, does the Superintendent of Schools or the Board of Education have any discretion in permitting or denying such inspection?"

Section 163.140, RSMo 1949, to which you refer, reads as follows:

"It shall be the duty of every teacher employed in any of the public schools of the state to keep a daily register, in which the names, ages and date of entrance of the pupils shall be entered, and the studies pursued by the same; the date of each visitation by the directors or other school officers, which register shall be open to the inspection of the public at all times."

Said section provides that the "daily register" shall be open to the inspection of the public at all times. In view of such fact, we are of the opinion that said register constitutes a public record.

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In the case of State v. Brown, 345 Mo. 430, 134 SW2d 28, 1.c. 31, the court stated:

"If so, such records are 'official' records or public records because the statute requires them to be kept open to public inspection."

Generally, any writing or document constituting a public record is subject to inspection by the public. Disabled Police Veterans Club v. Long, 279 SW2d 220, State ex rel. Cavanaugh v. Henderson, 350 Mo. 968, 169 SW2d 389, and it is not essential that the inspection of public records be limited to persons who have some legal interest to be subserved by the inspection. Disabled Police Veterans Club v. Long, supra.

The General Assembly has the power and authority to grant, by statute, the right of inspection of public records to all persons. 76 C.J.S., Sec. 35(b), p. 135. This the Legislature has seen fit to do in regard to the "daily register", in plain and unambiguous language, which leaves no room for any other construction.

The right to inspect public records carries with it the right to make copies, without which the right to inspect would be practically valueless. Disabled Police Veterans Club v. Long, 279 SW2d 220, State ex rel. v. Williams, 96 Mo. 13, 8 SW 771, 45 Am. Jur., Sec. 15, p. 426.

While we are led to the conclusion that the public has the right to inspect and copy the contents of the "daily register", we do not mean to say that such right is completely unrestricted. On the contrary, such right must be exercised at a proper time and place, and in such manner as will not unduly interrupt or interfere with the discharge of duties. This rule is stated in 79 C.J.S., Schools, Sec. 414, p. 288, as follows:

"This right of inspection is not unqualified or unrestricted, but must be accepted and exercised at a proper time and place, and in such manner as will not unduly interrupt or interfere with the \* \* \* \* discharge of official duties".

#### CONCLUSION

Therefore, it is the opinion of this office that the public has the right to inspect and copy the contents of the "daily register" required by Section 163.140, RSMo 1949, provided that the exercise of such right does not unduly interrupt the discharge of duties,

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and that the board of education or the superintendent of schools do not have any discretion in permitting or denying such inspection or the right to request a statement of purpose before permitting such inspection.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Mr. Donal D. Guffey.

Very truly yours,

John M. Dalton  
Attorney General

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