

DEPARTMENT OF ELEMENTARY  
AND SECONDARY EDUCATION:  
SCHOOLS:  
SCHOOL RECORDS:  
SUNSHINE LAW:

Under the facts presented,  
average Missouri Mastery  
and Achievement Test (MMAT)  
scores for each individual  
grade of each elementary  
school building within a  
school district are public  
records which are open to  
the public for inspection and  
copying.

May 5, 1993

OPINION NO. 68-93

The Honorable Charles W. Shields  
Representative, District 28  
State Capitol Building, Room 101G  
Jefferson City, Missouri 65101

Dear Representative Shields:

This opinion is in response to your question asking whether average Missouri Mastery and Achievement Test (MMAT) scores for each individual grade of each elementary school building within a school district are public records. In addressing your question, we assume: 1) the school district has a record which sets forth the average MMAT scores for each individual grade of each elementary school building, and 2) the number of students in each individual grade of each elementary school building is large enough that the disclosure of the average MMAT scores for each individual grade of each elementary school building will not result in an individual student's MMAT scores being determinable.

Chapter 610, RSMo, is commonly referred to as the Missouri Sunshine Law. Section 610.010(2), RSMo Supp. 1992, defines a "public governmental body" to include a "school district." Section 610.010(4), RSMo Supp. 1992, defines a "public record" as:

any record retained by or of any public governmental body including any report, survey, memorandum, or other document or study prepared and presented to the public governmental body by a consultant or other professional service paid for in whole or

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in part by public funds; provided, however, that personally identifiable student records maintained by public educational institutions shall be open for inspection by the parents, guardian or other custodian of students under the age of eighteen years and by the parents, guardian or other custodian and the student if the student is over the age of eighteen years;

Under this definition of "public record," a record which sets forth the average MMAT scores about which you are concerned is a "public record."

Section 610.011, RSMo Supp. 1992, provides:

610.011. Liberal construction of law to be public policy.--1. It is the public policy of this state that meetings, records, votes, actions, and deliberations of public governmental bodies be open to the public unless otherwise provided by law. Sections 610.010 to 610.028 shall be liberally construed and their exceptions strictly construed to promote this public policy.

2. Except as otherwise provided by law, all public meetings of public governmental bodies shall be open to the public as set forth in section 610.020, all public records of public governmental bodies shall be open to the public for inspection and copying as set forth in sections 610.023 to 610.026, and all public votes of public governmental bodies shall be recorded as set forth in section 610.015. [Emphasis added.]

Under Section 610.011, public records (the average MMAT scores about which you are concerned) of a public governmental body (a school district) are to be open to the public for inspection and copying unless a closure provision applies.

Section 610.021, RSMo Supp. 1992, sets forth various categories of records which may be closed. Section 610.021(6) authorizes a public governmental body to close records to the extent they relate to the following:

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(6) Scholastic probation, expulsion, or graduation of identifiable individuals, including records of individual test or examination scores, however, personally identifiable student records maintained by public educational institutions shall be open for inspection by the parents, guardian or other custodian of students under the age of eighteen years and by the parents, guardian or other custodian and the student if the student is over the age of eighteen years;

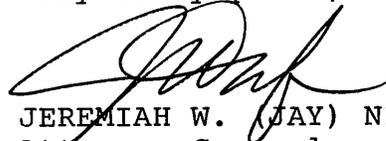
Your opinion request pertains to a record which sets forth the average MMAT scores for each individual grade of each elementary school building within a school district. Your opinion request does not relate to individual test scores. Therefore, the closure provision in Section 610.021(6) is not applicable.

In summary, a school district is a public governmental body to which the Sunshine Law applies. The records about which you are concerned are public records. Such public records are open to the public unless otherwise provided by law. No other law makes the records about which you inquire closed records so such records are open to the public.

CONCLUSION

It is the opinion of this office that under the facts presented, average Missouri Mastery and Achievement Test (MMAT) scores for each individual grade of each elementary school building within a school district are public records which are open to the public for inspection and copying.

Very truly yours,



JEREMIAH W. (JAY) NIXON  
Attorney General