

Senate Education Committee

SB 2343

Testimony in support by Jeffry Volk, a SBHE member NOT representing the board.

January 31, 2023

Chairman Elkin and Committee Members

My name is Jeffry Volk, a member of the ND State Board of Higher Education (SBHE). My term as a member of the ND State Board of Higher Education began on July 1, 2021. I want to make it very clear I am here on my own behalf as a member of a board for a public entity. I do not represent the SBHE on this matter. I requested Senator Lee prepare and introduce this bill on my behalf specifically because of challenges I have with the SBHE as it relates to gaining access as a SBHE member to records, information and documents.

SB 2343 simply asks to add language to Chapters 15-10 and 44-04 of the NDCC making it clear that a member of the board of a public entity does not need to ask permission of the board of that public entity to gain access to the records of the public entity, whether those records were created before or while the individual requesting access to records is a member of the public entity. As a board member of a public entity you have the responsibility to be knowledgeable and prepared to discharge your duty to the public. Not having access to the same facts and information as other board members is a disservice to the member, the board and the public. Limiting access to information and records for any public entity board member smacks in the face of transparency and accountability.

I do not want to go deep in the weeds with my requests for records that have been denied, so I will briefly describe the first and latest incidents. There are several others.

My first request for a record was the very first day I became a member of the SBHE when I requested, and was ultimately denied, access to the recording of the SBHE executive session that occurred two days before I became a member. Interestingly, in addition to the SBHE members, the Chancellor and several NDSO staff were invited to attend this executive session while the newly appointed student member and I both drove to Minot to observe this SBHE meeting and had requested to be able to attend the executive session. We were not allowed to attend and ultimately, I was not allowed to listen to the recording.

Coincidentally, both of us were allowed to attend the SBHE executive session one month earlier.

My latest experience relates to a request I made to NDSO staff three months ago to receive more detailed enrollment data than what gets published in the annual fall enrollment reports and what was provided as a result of another SBHE member's request for supplemental enrollment data. After waiting for the data for a couple of months, which of itself is not the issue as I was told it would take several hours of time to compile the data, I recently got a call from the SBHE chair where he advised me going forward I was only allowed to ask staff for information that could be compiled in 5 minutes or less. Further I was advised by staff at our SBHE meeting last week that my now 3 month old enrollment data request was not on staffs list of things to do.

As I mentioned earlier, for me this is a transparency and an accountability matter. Public entities need to be transparent to the public they serve and for the board members that serve. Board members are accountable to the public. I take that responsibility seriously. I know gaining access to records is an important part of preparing and discharging my duty to the public. I should have access to the same NDUS records as any SBHE member who has served longer than I have.

I ask for your do-pass recommendation as SB 2343 moves to the Senate floor.

I am more than willing to stand for questions from the committee.

Thank you for your consideration and support.

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