

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE COMMISSIONER OF ADMINISTRATION

In the Matter of the Appeal of the
Determination of the responsible authority
for Independent School District No. 2580,
East Central, that Certain Data about
Jeanne Slama are Accurate and/or
Complete

**RECOMMENDATION ON
CROSS-MOTIONS FOR
SUMMARY DISPOSITION**

The above-entitled matter is before Administrative Law Judge Steve Mihalchick on the Motion to Dismiss of Independent School District No. 2580, East Central (the School District) filed on October 9, 2003, and the Memorandum in Opposition to Motion to Dismiss filed on October 23, 2003, by Jeanne Slama (Petitioner). For reasons set forth in the accompanying Memorandum, the motion and response are being treated as cross-motions for summary disposition. Oral argument on the motions was heard on November 4, 2003. The record closed on November 12, 2003, upon receipt of the supplemental affidavit of Petitioner.

Nancy E. Blumstein and Eric J. Quiring, Attorneys at Law, 300 U.S. Trust Building, 730 Second Avenue South, Minneapolis, MN 55402, appeared for the responsible authority. Dale G. Swanson, Attorney at Law, 407 West Broadway Avenue, Forest Lake, MN 55025, appeared for Petitioner Jeanne Slama.

Based upon all the files, records, and proceedings herein, and for the reasons set forth in the accompanying Memorandum, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS RESPECTFULLY RECOMMENDED that the Commissioner of Administration issue the following order:

1. That Petitioner's and the School District's cross-motions for summary disposition both are **DENIED IN PART** and **GRANTED IN PART**, as follows.
2. That the School District remove from its records and destroy the letters from School District Superintendent Cambronne to Petitioner of January 30, 2003, and September 8, 2003.

3. That the following letter be issued and signed by the Superintendent and placed and maintained in the School District records in place of the letters of January 30, 2003, and September 8, 2003:

January 30, 2003

Mrs. Jeanne Slama
Rt 1, Box 12
Sandstone, MN 55072

On Wednesday, January 29, 2003, I was contacted by the High School secretary who informed me that she had received a report that you were involved in a confrontation with High School student [K.G.] in the hallway of the High School. In response to this report, I interviewed the student who shared her perspective of the incident as well as her relationship to you. The Student indicated that the basis for the confrontation was family related. She further stated that there were no witnesses to the confrontation. As the incident supposedly occurred during a time when class was in progress, it would not be unusual for there not to be anyone else in the hallway at the time of the incident.

You have told me that you did not meet the student that day and that the confrontation did not occur. I do not have sufficient information to render a conclusion as to the veracity of what was reported to me. However, I do have an obligation to provide a safe educational environment to every student enrolled in our School District. To that end, it is my duty to ensure that confrontations do not occur within one of our school buildings. Disruptions to the educational environment caused by any visitor to our schools will not be tolerated.

Sincerely,

John Cambronne
Superintendent of Schools.

4. That the letter shall also be provided to all persons to whom either or both of the letters of January 30, 2003, and September 8, 2003, were provided with a letter stating that it is intended to replace the prior letter or letters.

Dated this 18th day of December, 2003.

s/Steve M. Michalchick
STEVE M. MIHALCHICK
Administrative Law Judge

NOTICE

This report is a recommendation, not a final decision. The Commissioner of Administration will make the final decision after a review of the record. The Commissioner may adopt, reject, or modify the Recommendation and Memorandum contained in this Report. Under Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact Brian J Lamb, Commissioner of Administration, 200 Administration Bldg, 50 Sherburne Avenue, St Paul, MN 55155, 651-296-1424 to learn the procedure for filing exceptions or presenting argument.

If the Commissioner fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. The record closes upon the filing of exceptions to the report and the presentation of argument to the Commissioner, or upon the expiration of the deadline for doing so. The Commissioner must notify the parties and the Administrative Law Judge of the date on which the record closes.

Under Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.

MEMORANDUM

Factual Background

The Superintendent of the School District is designated as its responsible authority for matters concerning the collection, use, and dissemination of data under Minn. Stat. ch. 13, the Minnesota Government Data Practices Act (MGDPA).^[1]

Petitioner and her husband have four children that have attended School District schools. At the time of the events giving rise to this challenge, the second oldest daughter was a senior at the School District's East Central Senior High in Sandstone. That daughter has developmental and learning disabilities and is confined to a wheel chair, due to a condition she has had since birth. She is legally blind and requires constant care and assistance, not only in attending school and learning, but also with eating, cleanliness, and transport to the restroom and around the building. The School District provides her with special education in accordance with an Individual Educational Plan (IEP). During the time that Petitioner's daughter attended the school, Petitioner raised certain claims against the School District concerning her daughter's education, some of which went to litigation. Another of Petitioner's daughters has a milder disability and receives services from the School District under Section 504 of the Rehabilitation Act of 1973. Petitioner believes it is necessary to involve herself in every phase of her daughters' education and to have access to the school now to monitor her youngest daughter's education.^[2] It is apparent from the contents and tone of

Petitioner's affidavits that the relationship between Petitioner and the School District has at times been contentious and confrontational. For example, Petitioner has filed complaints with School District personnel alleging that certain persons have committed child abuse and neglect and complains that School District personnel failed in their obligation as mandated reporters to report that maltreatment.^[3] The School District claims her reports could not be substantiated.^[4]

For several years, Petitioner's mother and father have been foster parents to K.G. and K.V., female students attending the high school. Petitioner claims that K.V. has long complained to her about the conduct of Petitioner's parents, including allowing K.G. to beat up K.V. On January 28, 2003, Petitioner reported the complaints to a psychologist at a medical center and the Pine County Sheriff.^[5]

On January 29, 2003, Petitioner's mother called the School District and told a school secretary that Petitioner had been involved in a confrontation with K.G. in the hallway of the high school that morning. The secretary informed the Superintendent. He investigated by interviewing K.G., who stated that a physical confrontation had occurred and that it involved family issues. The Superintendent consulted with an attorney. On January 30, 2003, the Superintendent sent a letter to Petitioner, the text of which stated:

It was reported to me by high school staff that a serious confrontation occurred between you and a high school student, [K.G.] on Wednesday, January 29th in the hallway of the high school. I interviewed the student who shared her perspective of the incident as well as her relationship to you. It is my understanding that the basis for this confrontation was family related. Regardless of the relationship between you and [K.G.] and the family issues that resulted in the confrontation, the behavior in the school was totally unacceptable and will not be tolerated in the future by either party. I need to remind you that as a demonstration of cooperation, you have been invited into the school to bring and pickup [T.S.] as well as provide limited support for her transition back into school. If any further confrontation or disruption to the educational environment should occur in the future you will not be allowed access to the school.^[6]

Petitioner had been present in the school that morning, but denies that she encountered K.G. at any time that day.^[7] By letter of February 11, 2003, to the Superintendent, Petitioner denied that a confrontation or conversation with K.G. had occurred, and requested an investigation to clear up the matter. She also requested that her letter be attached to any documents maintained by the School District relating to the alleged confrontation.^[8]

The Superintendent further investigated the matter by talking to some School District employees who might have witnessed the alleged incident, but found none who did and none who had any other knowledge of the alleged incident. The Superintendent does not know whether the confrontation occurred.^[9]

On February 26, 2003, by letter to the Superintendent as the responsible authority for the School District, Petitioner and her attorney challenged the accuracy and completeness of the January 30, 2003 letter.^[10]

By letter of March 5, 2003, counsel for the School District responded to Petitioner's attorney on behalf of the School District, but not expressly on behalf of the responsible authority. The letter stated that the January 30, 2003, letter was the only piece of data the School District possessed regarding the alleged incident, that it was "in all ways appropriate and truthful," and that the School District would attach the letter noting Petitioner's objection.^[11]

By letter of March 31, 2003, Petitioner filed an appeal with the Department of Administration (Department).^[12] Donald Gemberling of the Department's Information Policy and Analysis Division responded to Petitioner's appeal on April 3, 2003. He suggested that Petitioner obtain a response directly from the responsible authority and he requested greater specificity as to the what data was being challenged and why Petitioner considered that data inaccurate or incomplete.^[13] By letter of April 7, 2003, Petitioner's counsel sent the Department a copy of the March 5, 2003, letter from School District counsel. He also sent the Superintendent another letter as suggested by Mr. Gemberling pointing out that Minn. Stat. § 13.04, subd. 4, required him, as responsible authority, to act upon the data challenge.^[14]

By letter of April 14, 2003, counsel for the School District again responded to Petitioner's attorney on behalf of the School District, and not on behalf of the responsible authority. The letter stated that all further communication with the Superintendent must be through counsel's office, repeated some of what was said in the prior letter, sent along a copy of that letter, and said that the Superintendent's January 30, 2003, letter was accurate.^[15] Petitioner sent a copy of the letter to the Department and asked that it act upon the appeal.^[16]

By letter of April 23, 2003, the Department wrote the Superintendent directly asking that he fulfill his responsibility as the responsible authority under Minn. Stat. § 13.04, subd. 4, and respond personally, not through an attorney, to Petitioner's letter contesting the accuracy and completeness of the data.^[17] On April 29, 2003, the Superintendent, as the responsible authority, wrote Petitioner stating that the two letters from the School District's legal counsel also represented his response to the data challenge, that he believed his letter of January 30, 2003, to contain accurate data, and that he had attached Petitioner's data challenge to the letter.^[18]

By letters dated May 6, 2003, the Department informed Petitioner and the Superintendent of the Commissioner's obligation to "try to resolve the dispute through education, conference, conciliation, or persuasion" pursuant to Minn. Stat. § 13.04, subd. 4.^[19] The School District expressed interest in informal dispute resolution, but Petitioner did not respond. Accordingly, on June 18, 2003, the Commissioner ordered a contested case hearing for August 27, 2003.

On July 10, 2003, a telephone prehearing conference was held. It was agreed that discovery would be completed by August 22, 2003, and that the hearing would be rescheduled to September 17, 2003. Discovery disputes arose almost immediately, some involving the School District simply not having information that Petitioner was requesting, and some involving refusals by the School District to provide what limited information it did have or couching its responses in qualified or non-responsive form. Discovery telephone conferences were held on August 7 and September 4, 2003.

During the September 4, 2003, telephone conference, the School District's attorney reiterated previous claims that the School District and Superintendent did not know whether the alleged incident had occurred, and claimed that the January 30, 2003, letter was not intended to state that the event had occurred. Petitioner's attorney claimed that the letter did make such a statement. Because the letter had never been submitted by the parties, the Administrative Law Judge required that the letter be read to him. Despite the School District's claims, it was obvious that the letter implied that the Superintendent believed that the incident had occurred. The Administrative Law Judge then stated that because the only issue in this matter was the accuracy and completeness of the January 30, 2003, letter, and because the School District was claiming that it did not know whether the incident had occurred and had not meant to imply otherwise, the likely result of the hearing would be an order to correct the letter to remove any implication that the incident had actually occurred. The School District's attorney stated that the School District was willing to make such a change. The Administrative Law Judge stated that if the School District did so, that should resolve the matter and that he would entertain a motion to dismiss.

The next day, the Superintendent issued a revised letter that stated:

On Wednesday, January 29, 2003, I was contacted by the High School secretary who informed me that she had received a report that you were involved in a confrontation with High School student [K.G.] in the hallway of the High School. In response to this report, I interviewed the student who shared her perspective of the incident as well as her relationship to you. The Student indicated that the basis for the confrontation was family related. She further stated that there were no witnesses to the confrontation. As the incident supposedly occurred during a time when class was in progress, it would not be unusual for there not to be anyone else in the hallway at the time of the incident.

I do not care to intrude upon your family issues or relationships. Nor, do I have sufficient information to render a conclusion as to the veracity of what was reported to me. However, I do have an obligation to provide a safe educational environment to every student enrolled in our School District. To that end, it is my duty to ensure that confrontations, such as the one reported to me, do not occur within one of our school buildings.

As a demonstration of cooperation you have been permitted access to the High School for purposes of transporting [T.S.] to and from school and for

providing her limited support during her transition back into the school environment. We will not be able to continue to provide you this unlimited access if we receive any more reports of the nature we have described. This notice is being provided to you as a precaution. It does not reflect a conclusion regarding the report and/or your conduct.

The Superintendent states that the revised letter was written in an attempt to respond to Petitioner's concerns and in an effort to ensure that Petitioner was aware of the School District's need to ensure student safety.^[20]

On September 10, 2003, the School District's attorney wrote Petitioner's attorney. In addition to providing some discovery responses, the letter stated that the revised letter would replace the original January 30, 2003, letter and that the original letter would be expunged.^[21] The attorney's letter went on to state:

The District believes that the attached revision should resolve any differences between the parties and eliminate the need for the data privacy hearing you have requested. By copy of this letter, the District respectfully requests that the Administrative Law Judge dismiss this matter.

Petitioner did not agree that the changes resolved the matter. By letter of September 24, 2003, the Administrative Law Judge required the School District to formalize its request in the form of a Motion to Dismiss or a Motion for Summary Disposition. In a telephone conference of October 7, 2003, the Administrative Law Judge denied Petitioner's request to be allowed to depose the student who had alleged that the confrontation occurred and denied all further discovery pending resolution of the summary disposition motion.

Summary Disposition Standard

As an initial matter, the Administrative Law Judge finds that the School District's motion, although labeled a motion to dismiss, is more appropriately treated as one for summary disposition. When matters outside the pleadings are presented for consideration, the motion must be reviewed under a summary judgment standard.^[22] In this case, the School District has attached supporting documentation to its motion. Accordingly, the Administrative Law Judge will review this matter as a motion for summary disposition.

Summary disposition is the administrative equivalent of summary judgment. Summary disposition is appropriate where there is no genuine issue as to any material fact and one party is entitled to judgment as a matter of law.^[23] The Office of Administrative Hearings has generally followed the summary judgment standards developed in judicial courts in considering motions for summary disposition of contested case matters.^[24]

The moving party has the initial burden of showing the absence of a genuine issue concerning any material fact. A genuine issue is one that is not sham or

frivolous. The resolution of a material fact will affect the result or outcome of the case.^[25] To successfully resist a motion for summary judgment, the nonmoving party must show that there are specific facts in dispute that have a bearing on the outcome of the case.^[26] When considering a motion for summary judgment, the facts must be viewed in the light most favorable to the non-moving party,^[27] and all doubts and factual inferences must be resolved against the moving party.^[28] If reasonable minds could differ as to the import of the evidence, judgment as a matter of law should not be granted.^[29]

Summary judgment may be granted in favor of a non-moving party.^[30] In this case, Petitioner has requested disposition in her favor based upon uncontested facts. Therefore, the Administrative Law Judge will treat this proceeding as cross-motions for summary disposition.

Legal Background

The MGDPA allows the subject of data to challenge a responsible authority's determination as to accuracy and completeness of that data.^[31] "Accurate" data is reasonably correct and free from error; "complete" data reasonably reflects the history of an individual's transactions with the particular entity.^[32] Minn. R. 1205.1500, subp. 2, states that "[o]missions in an individual's history that place the individual in a false light shall not be permitted."^[33] The responsible authority has a duty to assure the accuracy and completeness of data and to support the legislative purpose of "preventing confusion, mistake, embarrassment, ridicule, or other harm that the subject of government data could suffer."^[34] The burden is upon the subject of the data to show, by a preponderance of the evidence, that the challenged data is not accurate and complete.^[35]

Arguments of the Parties

a. The School District's reasoning

The School District argues that the responsible authority is not charged with determining the absolute truth or falsity of a matter beyond a reasonable doubt before creating any data.^[36] It maintains that the Superintendent had a right to immediately address LaVerna Becker's report of a physical confrontation alleged to have taken place on school property to protect the safety of other children and to acknowledge the concerns of Ms. Becker and K.G. The School District asserts that the Superintendent's investigation into the incident before he drafted the letter dated January 30, 2003, was reasonable and sufficient to make the data reasonably correct and a reasonable reflection of Petitioner's history with the school and, therefore, accurate and complete.

The School District goes on to assert that whether the alleged confrontation actually occurred is not relevant to Petitioner's challenge of the January 30, 2003, letter, and that she is not entitled to a "mini-trial" on the merits.^[37] According to the School District, the Superintendent's reasonable investigation is all that the MGDPA requires. And because Petitioner cannot dispute that the Superintendent received LaVerna

Becker's report, that K.G. confirmed the report, and that physical confrontations are not allowed at school, she cannot make a successful appeal as to the accuracy and completeness of the data.

In addition to all the above arguments, the School District asserts that its revised letter dated September 8, 2003, is a reasonable means of addressing Petitioner's concerns because the new letter clearly indicates that the School District is not taking a position on the veracity of K.G.'s allegations or becoming involved with the family-related issues between Petitioner and K.G.^[38]

The District stresses that the letter is a protection for the Superintendent in the event he ever needs to prove that he took reasonable action upon learning of the alleged confrontation. As a final matter, the School District is open to further revision of the letter.

b. Petitioner's reasoning

Petitioner makes two arguments, one of which is related to the discovery process. Petitioner argues that summary judgment may only be entered "after adequate time for discovery."^[39] Petitioner asserts that the School District has refused to respond to discovery requests and that the Administrative Law Judge has prematurely closed discovery in the matter. Petitioner had done a substantial amount of discovery, reasonably attempting to find evidence that the confrontation did not occur and to learn what evidence the School District had. Petitioner was not happy with some of the answers it received. Petitioner was seeking to depose the student, apparently to find evidence that might discredit her allegations. But as long as the School District maintained that it did not know whether or not the incident occurred and did not intend to state otherwise in its letter, what the student had to say was irrelevant. Moreover, it was likely that any such deposition would be a highly confrontational event. Petitioner had engaged in fairly lengthy discovery that was certainly adequate to allow Petitioner to respond to a summary disposition motion. Further discovery, particularly a deposition of the student was not necessary.

Petitioner's second and primary argument relates to the policy behind the MGDPA. While the MGDPA generally places the burden on the subjects of data to regulate the accuracy and completeness of that data, the legislature has enacted specific obligations by which the responsible authority must assure that all data on individuals is accurate, complete and current.^[40] Petitioner contends that the assurance required by the legislature and offered by the MGDPA applies before and after a decision to create, store, and maintain government data. In the context of this matter, Petitioner objects to the September 8, 2003, revised letter because the School District attempts to save or correct the data by merely inserting phrases such as "supposedly" or "allegedly" before data that Petitioner maintains is false.

According to Petitioner, the issue is not what the Superintendent believed to be true at the time of the alleged confrontation, but whether, after the fact, Petitioner can show by a preponderance of the evidence that the letter is not accurate or complete.

Petitioner concedes that the MGDPA cannot require accuracy and completeness as a condition precedent to the creation, storage and maintenance of government data. However, after the fact, Petitioner may attempt to prove the data are inaccurate or incomplete.^[41] If Petitioner meets that burden, then, she asserts, public policy does not support the continued existence of the data, which is why the legislature provided the remedy of expungement of the data. Petitioner presents as further support for the remedy of expungement, the case law supporting the legislative purpose of preventing confusion, mistake, embarrassment, or ridicule that could occur if the letter continued to exist.^[42]

Finally, Petitioner maintains that if the data is not expunged, it should at least be supplemented by all the historical facts surrounding Petitioner and the School District.^[43]

Discussion

There are many fact issues in dispute in this matter. The principle one is whether the alleged confrontation occurred. Another is whether the Superintendent believed the allegations of the student. His original letter strongly implies a conclusion that the incident occurred. But he tells us in his affidavit and representations of counsel that he does not know whether the confrontation occurred or not, just that it may have.

Despite the many fact issues, the material facts are undisputed. The student alleged that she and Petitioner had a verbal and physical confrontation in the high school on January 29, 2003; Petitioner denies that any meeting or confrontation occurred; there were no witnesses; the Superintendent doesn't know whether the confrontation actually occurred, but reasonably feels a need to respond somehow to ensure student safety.

In light of these facts, it is clear that several items in the original letter were inaccurate and incomplete. The revised letter corrected many of the inaccurate or incomplete statements, but also contains some inaccurate and incomplete statements and implications. They are:

- The first sentence of the second paragraph implies that the Superintendent believes the student's allegations about family matters, and, thus, the rest of the allegations. It must be deleted.
- The letter makes no statement about Petitioner's version of the facts, again implying an endorsement of the student's allegations. The second paragraph should start with, "You have told me that you did not meet the student that day and that the confrontation did not occur. I do not have sufficient information"
- The phrase, "such as the one reported to me," in the last sentence of the second paragraph is vague and implies that Petitioner knows what type of confrontation occurred because she was there. The phrase should be deleted.

- The final paragraph of the letter contains a threat of punishment if the School District receives any more reports of this nature against Petitioner. Again, this is an implication that the Superintendent believed the first report, plus a statement that he will automatically accept any additional reports against Petitioner. If we take the School District at its word, it needs to take some action to protect Students. The third paragraph goes far beyond that. It can reasonably read as saying that Petitioner did engage in the physical confrontation with the student, and if she does it again, she'll be barred from the school. The paragraph must be deleted. In its place, or at the end of the second paragraph, the School District may wish to add, "Disruptions to the educational environment caused by any visitor to our schools will not be tolerated."

The foregoing recommendation contains a letter with these corrections.

S.M.M.

^[1] Affidavit of John Cambronne, ¶ 2.

^[2] Affidavit of Jeanne Slama, ¶¶ 1-7.

^[3] Supplemental Affidavit of Jeanne Slama, ¶¶ 2-3.

^[4] Second Affidavit of John Cambronne, ¶¶ 4 and 22.

^[5] Affidavit of Jeanne Slama, ¶¶ 8-9 and 13.

^[6] Affidavit of John Cambronne, ¶¶ 3-5 and Ex. A.

^[7] Affidavit of Jeanne Slama, ¶ 10.

^[8] Affidavit of Jeanne Slama, ¶ 12; Affidavit of John Cambronne, ¶ 6 and Ex. B

^[9] Affidavit of John Cambronne, ¶ 6.

^[10] Affidavit of John Cambronne, Ex. C.

^[11] Notice of and Order for Hearing, Ex. 3-A.

^[12] Notice of and Order for Hearing, Ex. 1.

^[13] Notice of and Order for Hearing, Ex. 2.

^[14] Notice of and Order for Hearing, Ex. 3.

^[15] Notice of and Order for Hearing, Ex. 4-A.

^[16] Notice of and Order for Hearing, Ex. 4.

^[17] Notice of and Order for Hearing, Ex. 5. Despite the fact that attorneys may normally stand in the place of their clients, they may not stand in the place of a responsible authority under the MGDPA unless they are contractually delegated the duties of a responsible authority and accept the responsibilities of the position. *Feehan v City of St. Mary's Point*, 2003 WL 21321691, unreported, (Minn. App. June, 10, 2003).

^[18] Notice of and Order for Hearing, Ex. 6.

^[19] Notice of and Order for Hearing, Exs. 8 and 9.

^[20] Affidavit of John Cambronne, ¶ 8.

^[21] The October 8, 2003, Affidavit of John Cambronne also states that the revised letter "will" take the place of the original letter, and that the original letter "will be" expunged. At the November 4, 2003, motion hearing, the School District attorney assured the Administrative Law Judge that the original letter had been expunged and the revised letter had been placed in the School District records in its place.

^[22] *Witzman v. Lehrman, Lehrman & Flom*, 601 N.W.2d 179, 184-85 (Minn. 1999); *Cummings v. Koehnen*, 556 N.W.2d 586, 588 (Minn. Ct. App. 1996); Minn. R. Civ. P. 12 and 56.

^[23] *Sauter v. Sauter*, 70 N.W.2d 351, 353 (Minn. 1995); *Louwgje v. Witco Chemical Corp.*, 378 N.W.2d 63, 66 (Minn. Ct. App. 1985); Minn. Rules, 1400.5500K; Minn.R.Civ.P. 56.03.

^[24] See Minn. Rules 1400.6600 (1998).

^[25] *Illinois Farmers Insurance Co. v. Tapemark Co.*, 273 N.W.2d 630, 634 (Minn. 1978); *Highland Chateau v. Minnesota Department of Public Welfare*, 356 N.W.2d 804, 808 (Minn. App. 1984).

^[26] *Thiele v. Stich*, 425 N.W.2d 580, 583 (Minn. 1988); *Hunt v. IBM Mid America Employees Federal*, 384 N.W.2d 853, 855 (Minn. 1986).

^[27] *Ostendorf v. Kenyon*, 347 N.W.2d 834 (Minn. App. 1984).

^[28] See, e.g., *Celotex*, 477 U.S. at 325; *Thompson v. Campbell*, 845 F.Supp. 665, 672 (D.Minn. 1994); *Thiele v. Stich*, 425 N.W.2d 580, 583 (Minn. 1988); *Greaton v. Enich*, 185 N.W.2d 876, 878 (Minn. 1971).

^[29] *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 250-251 (1986).

^[30] *Boyle v. Anderson*, 849 F.Supp. 1307 (D. Minn. 1994); *Leidall v. Grinnell Mutual Reinsurance Company*, 374 N.W.2d 532 (Minn. App. 1985); *Anderson v. Lappegaard*, 302 Minn. 266, 224 N.W.2d 504 (1974).

^[31] Minn. Stat. § 13.04, subd. 4.

^[32] Minn. R. 1205.1500, subp. 2.

^[33] Minn. R. 1205.1500, subp. 2.

^[34] *Hennepin County Community Services Dept. v. Hale*, 470 N.W.2d 159, 164 (Minn. App. 1991).

^[35] Minn. R. 1400.7300, subp. 5.

^[36] Memorandum of Law in Support of Motion to Dismiss, p. 6.

^[37] Memorandum of Law in Support of Motion to Dismiss, pp. 6-7.

^[38] Memorandum of Law in Support of Motion to Dismiss, pp. 8-9.

^[39] Memorandum in Opposition to Motion to Dismiss, p. 3, citing *Celotex Corp. v. Catrett*, 477 U.S. 317 (1986) and *Carlisle v. City of Minneapolis*, 437 N.W.2d 712, 715 (Minn. App. 1989).

^[40] Memorandum in Opposition to Motion to Dismiss, pp. 4-5, citing Minn. Stat. § 13.05, subd. 5.

^[41] Memorandum in Opposition to Motion to Dismiss, p. 6.

^[42] *Hennepin County Community Services Dept. v. Hale*, 470 N.W.2d 159, 164 (Minn. App. 1991).

^[43] Memorandum in Opposition to Motion to Dismiss, p. 7, Petitioner maintains that supplementation is an unsatisfactory remedy in this case because government data carries the appearance of more truth and objectivity than something authored by the subject.