



Information Policy
Analysis Division

Government Data Practices and the Open Meeting Law

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Who We Are and What We Do

- Information Policy Analysis Division (IPAD)
 - ✓ Informal advice
 - ✓ Commissioner of Administration advisory opinions
 - ✓ Website and information materials
 - ✓ Listserv and newsletters
 - ✓ Legislative assistance
 - ✓ Training and workshops

Today's Topics

- Overview of the Data Practices Act
- Making data requests
- Overview of the Open Meeting Law

Minnesota Statutes, Chapter 13

GOVERNMENT DATA PRACTICES

Government Data Practices Act

- Minnesota Statutes, Chapter 13
 - Provides rights for the public and data subjects
 - Presumes government data are public
 - Classifies data that are not public
 - Requires that data on individuals are accurate, complete, current, and secure
 - Defines government data
 - Provides penalties for violations
 - Requires that data are “easily accessible for convenient use”
- Minnesota Rules, Chapter 1205

Other Data Practices Related Laws

- The Official Records Act (Minn. Stat. § 15.17)
- The Records Management Statute (Minn. Stat. § 138.17)



What are *government data*?

- Government data are “all data collected, created, received, maintained or disseminated by any government entity regardless of its physical form, storage media or conditions of use.”

(Minn. Stat. § 13.02, subd. 7)



Application

- The Data Practices Act applies to:
 - ✓ State agencies
 - ✓ Statewide systems (e.g., University of Minnesota, MnSCU)
 - ✓ Political subdivisions
 - Counties, cities, school districts, certain metro townships, any board, commission, district or authority created by law
- The Data Practices Act does not apply to:
 - ✓ Certain townships
 - ✓ Non-governmental entities (e.g., condo associations)
 - ✓ The Legislature

Classification of Government Data

Classification	Meaning of Classification	Examples
Public	All members of the public have access	Gov't employee name
Private	Data subjects and individuals within an entity have access	SSN
Confidential	Data subject does not have access	Active investigative data

Policies & Procedures

- Government entities must have policies
 - ✓ Responding to public data requests
 - Minn. Stat. §13.025, subd. 2
 - ✓ Data subject rights and responding to data subject requests
 - Minn. Stat. §13.025, subd. 3

Tips for Making a Data Request

- Responsible authority
- Ask under Chapter 13, not FOIA
- Ask for data, not questions
- Inspection before copies
- Written request? Email OK?
- ID required only for data subjects

Response to a Data Request

- Government entities should respond in one of three ways
 1. Provide access to the data (and copies when requested)
 2. Inform you the data are classified as not public (must give statute section)
 3. Inform you the data do not exist
- Not responding is not a proper response
- Entities are not required to create data

Response Times

	Member of the Public (§13.03, subd. 3)	Data Subject (§13.04, subd. 3)
Inspection or copies of Data	Appropriate and prompt, reasonable amount of time	Immediately, if possible, or within 10 business days

Do You Have to Pay a Fee to Get Access to Government Data?

	Member of the Public §13.03, subd. 3(a); subd. 3(c)	Data Subject §13.04, subd. 3
Inspection	No charge or fee allowed	No charge or fee allowed
Copies	<ul style="list-style-type: none"> ❖ 25¢ per page <ul style="list-style-type: none"> 100 or fewer, black and white, legal/letter size paper copies ❖ Actual cost <ul style="list-style-type: none"> -- All other copies -- No charge to separate public from not public data -- Note: electronic data 	<ul style="list-style-type: none"> ❖ Actual cost <ul style="list-style-type: none"> -- No charge to search for and retrieve data -- No charge to separate public from not public data -- No charge to redact private or confidential data about others

What If You are Denied Access to Government Data?

- Ask entity to provide written basis for denial
- Contact DPCO
- Contact IPAD
- Remedies
 1. Commissioner of Administration advisory opinions
 2. File district court action to compel compliance
- Contact legislators, media

Minnesota Statutes, Chapter 13D

OPEN MEETING LAW

Key Issues

- When does the OML apply
 - Groups subject
 - Meetings subject
- Types of meetings
 - Meeting notices
- Closed meetings
- Special considerations

Groups subject to the OML

- State agencies, boards commissions, when transacting public business
- Governing bodies of schools, counties, cities, towns
- Committees, subcommittees, boards, departments & commissions of the above

Open Meetings

- With limited exceptions, all meetings of public bodies must be open to the public
 - The public has a right to attend open meetings
 - Law is silent on whether the public may speak at a meeting

What meetings are subject to the law?

- The quorum rule
- Two parts to the rule
 1. Quorum (majority) or more of full public body, or quorum of any of the public body's committees, subcommittees, etc – and
 2. Quorum (majority) discusses, decides, or receives information as a group on issues relating to its official business

Meetings Not Covered by the Law

- Meetings of less than a quorum of members
- Chance or social gatherings
 - Banquets, retirement parties, etc.
- Trainings

Types of Meetings

- Regularly scheduled meetings
- Special meetings
 - Any meeting not on the regular schedule
 - 3-day prior notice
- Emergency meetings
 - Special meetings called because circumstances don't allow for a 3-day prior notice

Closing Meetings

- Meetings may be closed only if required or permitted in the law
- All closed meetings, except those closed by attorney-client privilege, must be recorded and kept for 3 years unless otherwise specified
- Statement on the record before closing a meeting
 - Legal authority to close the meeting
 - Describe what will be discussed

Special Considerations

- Use of email
 - Avoid “discussion”
 - Advisory Opinion 09-020
- “Serial meetings”
 - Meetings of groups of less than a quorum
 - To avoid public hearings or fashion an agreement on an issue
 - Might be a violation depending on specific circumstances

Open Meeting Law & Data Practices

- Public bodies may discuss not public data in an open meeting without liability when:
 - within the scope of the public body's authority and
 - Is reasonably necessary to conduct business
 - Data retain original classification, however
 - Record of meeting is public

True or False #1

Public bodies must keep meeting minutes as required by the Open Meeting Law.

True or False #2

Actions taken at a meeting held in violation of the Open Meeting Law are invalid.

Thank You!

QUESTIONS?

Contact Information

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