



Growing Greater Understanding

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What does the future hold for Minnesota's landmark data practices and open meeting laws?

Toward a possible answer, IPAD this past summer gathered a diverse group of individuals and representatives of organizations for a wide-ranging discussion. The focus, initially, was on gathering ideas for potential legislation and feedback on previously introduced legislation. The result, however, was much more than that.

It had been several years since IPAD convened a group to discuss these laws. While IPAD hears concerns from both our citizen and government customers, the session provided a chance for those with differing perspectives and viewpoints to hear the challenges that others face. Many participants seemed to gain a greater appreciation for other perspectives through hearing opposing viewpoints firsthand. It was truly an exciting, and yes, fun exchange.

After overview presentations and idea brainstorming, participating stakeholders rated each of the suggestions by whether they "loved it," "hated it," or were neutral. Surprisingly, a number of ideas generated "love it" responses, including:

- Require an increased standard for a government entity to meet when requesting a temporary classification of data;
- Classify credit card numbers, bank account information, and computer related passwords and network architecture as private/nonpublic security information under Minnesota Statutes, section 13.37; and
- Continue IPAD educational efforts.

As to the additional classifications for security information, a media representative highlighted that with so much agreement and an effective protection mechanism already in place in section 13.37, further legislative discussion and action may not be warranted.



IPAD plans to hold similar meetings in the future and I encourage all of you to attend. It is helpful for IPAD to know which statutory issues are of concern to our customers so we can provide assistance. In the Winter issue of FYi, we will update you on our 2009 legislative initiatives. In the meantime, if you or your organization requires assistance with legislative drafting related to data practices or open meeting law issues, please contact us at info.ipad@state.mn.us.



From the IPAD Toolbox:

Informed Consent

IPAD has developed new informed consent education materials to assist government entities with creating informed consent documents, and to provide individuals with information about the informed consent requirements. The new education materials include background information about the informed consent requirements, four informed consent templates, and four sample informed consent forms.

The new informed consent education materials are available on IPAD's website:
www.ipad.state.mn.us/docs/consent.pdf.



2008 Legislative Update: Additional Changes

In the Summer issue of FYi, IPAD listed the provisions in the 2008 Omnibus Data Practices Bill (Minnesota Session Laws 2008, Chapter 315) and changes to the Open Meeting Law (Minnesota Statutes, Chapter 13D). For additional provisions from the 2008 Session Laws that amend Minnesota Statutes, Chapter 13, visit www.ipad.state.mn.us/docs/2008legsum2.pdf.



Genetic Information Work Group Update



The Minnesota Genetic Information Work Group met in July, September, and October to discuss topics related to searching the convicted offender registry maintained by the Minnesota Bureau of Criminal Apprehension, genetic information safeguards, and secondary uses of genetic information.

The work group will conclude meeting in November and submit its required report to the Minnesota Legislature by January 15, 2009. All of the work group's meetings are open to the public and anyone with an interest in genetic information issues is welcome to attend.

For more information about the work group, visit www.ipad.state.mn.us/geneticinfo.html.

Opinion Highlights

The following are highlights of recent advisory opinions by the Commissioner of Administration. All opinions are available on IPAD's website www.ipad.state.mn.us.

08-015: An individual asked whether a city council violated a provision of the Open Meeting Law (OML) requiring that printed materials relating to agenda items be made available to the public, by not providing copies of an email discussed at a meeting. (Minnesota Statutes, section 13D.01, subdivision 6.) The Commissioner opined that though the email was not "printed," the OML should be interpreted in favor of public access. The Commissioner further opined that because the email was initially sent by the City Manager to the council members, it was "distributed" within the meaning of the statute. Therefore, the Commissioner concluded that the Council did not comply with the section when it failed to provide a copy of the email.

08-023: An individual asked about his right to access a copy of a superintendent's employment contract maintained by a school district. The Commissioner opined that the Legislature intended for an employee's compensation and the basis of that compensation to be made public. The Commissioner further opined that terms and conditions of employment (including the process of reviewing an employee's performance) that apply to a bargaining unit, which are public, are similar to those in a contract between the school district and an individual. For these reasons, the Commissioner concluded that the school district did not comply with Minnesota Statutes, Chapter 13, when it denied full access to the Superintendent's employment contract.

08-024: A city asked about the classification of subscriber information the city's contractor maintains (the contractor sends electronic updates and alerts to the subscribers). The Commissioner opined that the subscriber information is government data and is public pursuant to the general presumption in Minnesota Statutes, Chapter 13.

08-025: A school district asked about the classification of certain data that it maintains about individuals who attend community education classes in the district. The Commissioner opined that people who attend community education classes are not "students" as defined under state and federal law, nor are they "in attendance" or "enrolled" in the district and, therefore, data about them are not classified under Minnesota Statutes, section 13.32. The Commissioner further opined, however, that Minnesota Statutes, section 13.548 classifies as private the name, address, telephone number and certain other data for the purpose of enrolling individuals in recreational and other social programs, which includes community education.

08-029: An individual asked about access to certain data maintained by a higher education institution regarding "annual athletically related income" reported by certain sports coaches. The Commissioner opined that while Minnesota Statutes, section 13.43, subdivision 2, makes certain information about salary public, it does not apply to data about the coaches' outside private employment. Therefore, the data are private pursuant to section 13.43, subdivision 4.

08-030: An individual asked about access to a booking photo of a minor taken by a county sheriff's office. The Commissioner opined that because the data subject is a minor child who may be delinquent or involved in criminal acts, data are classified pursuant to Minnesota Statutes, section 260B.171. The Commissioner further opined that the next step of the analysis depends upon whether the proceedings are open to the public under section 260B.163, subdivision 1; if so, the photograph is public. (Minnesota Statutes, section 13.82, subdivision 26.) However, if the proceedings are not open to the public, the photograph is classified pursuant to section 260B.171, subdivision 5, and is classified as private.

November Workshops

There are still spots available to attend IPAD's practical, interactive workshop set for Friday, Nov. 14th in St. Paul. Workshop participants will learn how to create customized versions of data access guides or update and improve their existing guides.

For more information and to register, visit www.ipad.state.mn.us.



Current Temporary Classifications of Data

Temporary classifications of government data have the same effect as other not public data for the period of the classification. Each classification has an expiration date and, if an entity has the data, it must treat the data as not public until the classification expires, or until the Legislature acts on the classification.

Visit www.ipad.state.mn.us/tempclasscurrent.html for the temporary classifications of government data that are currently in effect.

Questions or comments?

Contact the Information Policy Analysis Division at 201 Administration Building, 50 Sherburne Avenue, St. Paul, MN, 55155; phone 800.657.3721 or 651.296.6733; fax 651.205.4219; email info.ipad@state.mn.us; website www.ipad.state.mn.us

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This document can be made available in alternative formats, such as large print, Braille or audiotape by calling 651.296.6733. For TTY communication, contact the Minnesota Relay Service at 800.627.3529 and ask them to place a call to 651.296.6733.

