MINNESOTA
DEPARTMENT OF
ADMINISTRATION

FYi

From the Information Policy Analysis Division

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IPAD's website gets a refresh

We think you'll like it—please visit often. The content is much the same; it's just organized a little differently.

Look for these key features:

- Full text search functionality is improved for all documents on the site, including advisory opinions
- Advisory opinion topic index functionality is improved
- Sign up for our advisory opinion RSS feed
- Email a favorite page to your colleagues
- Connect with us by using our contact us fill-in-the-blank form
- Find answers to frequently-asked How Do I …? questions
- New glossary of specialized terms
- Updated and improved external links

Also, don't forget to sign up for our listserv. You'll receive notice of publication of the quarterly FYi newsletter; upcoming workshops; recent key data practices and/or Open Meeting Law appellate court cases; and legislative changes to relevant statutes.

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Spencer Cronk appointed Commissioner of Administration in February

Read more about Admin's new Commissioner.

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Advisory opinion highlights

Disclosing data to a county attorney

Opinion 11-003:
A school district asked whether, pursuant to Minnesota Statutes, Chapter 13, it could disclose certain data about a former employee to a county attorney. The data in question included data collected from the employee, and data collected from students and other employees and individuals. The Commissioner opined that, pursuant to Minnesota Statutes, section 13.43, subdivision 15 (disclosing data to law enforcement), the District could release certain data to the county attorney. However, because the district did not provide adequate Tennessen warning notices (Minnesota Statutes, section 13.04, subdivision 2), the district could not release any of the data it collected from the former employee of which s/he is the subject unless the former employee had given informed consent or there was a court order.

Open meeting notices and votes

Opinion 11-004:
On behalf of an organization, two individuals asked whether a public body complied with Minnesota Statutes, Chapter 13D (the Open Meeting Law), when it started a meeting forty five minutes earlier than the time stated in a notice and whether votes taken during that meeting were valid. The Commissioner opined that the public body did not comply with the notice requirements for regular meetings (Minnesota Statutes, section 13D.04, subdivision 4), but that the votes taken at the meeting were valid (see *Sullivan v. Credit River*, 217 N.W.2d 502 (Minn. 1974)). The Commissioner did note the following: the fact that a public body can hold an illegal meeting and take votes that are valid does not seem in keeping with the spirit of the Open Meeting Law.

Temporary classification update

Admin Commissioner Spencer Cronk approved an amended request from Mn/DOT for temporary classification of government data related to its Mileage Based User Fee pilot program.

In addition to the other travel data protected by Mn/DOT's original temporary classification, the names of the program participants now also have temporary protection.

Legislation to permanently protect the data was recently introduced in the Minnesota Legislature (SF 1149/HF 1060).

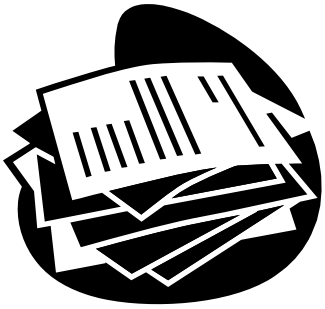
Mn/DOT's applications and the Commissioner's findings and conclusions are posted on IPAD's website.

Admin/IPAD technical bill heard in committee

IPAD's technical data practices and open meeting law bill, SF 1143 (Ortman) and HF 1466 (Scott), has been introduced. HF 1466 was heard in the House Data Practices subcommittee on April 26 and was passed out of the House Civil Law committee on April 28.

The bill promotes clarity, readability, and an overall better understanding of the Data Practices Act (Minnesota Statutes, chapter 13) and Open Meeting Law (Minnesota Statutes, chapter 13D).

In addition, the bill creates an "Open Meeting Law coded elsewhere" section that provides a list of statute sections outside of Chapter 13D that relate to the Open Meeting Law.



U.S. Supreme Court decides FOIA cases

The U.S. Supreme Court recently issued two decisions related to the federal Freedom of Information Act (FOIA).

In *Federal Communications Commission, et al. v. AT&T, Inc. et al.*, 131 S. Ct. 1177 (2011), the Court held that the protections for personal privacy in the FOIA exemption related to law enforcement information do not extend to corporations. Even though "person" is defined in FOIA to include corporations, the phrase "personal privacy" does not extend beyond individuals.

In *Milner v. Department of Navy*, 130 S. Ct. 3505 (2011), the Court held that the FOIA exemption covering material related to the internal personnel rules and practices of an agency encompasses only records relating to employee relations and human resources issues and should be narrowly construed.

"The protection in FOIA against disclosure of law enforcement information on the ground that it would constitute an unwarranted invasion of personal privacy does not extend to corporations."

OAH issues three data practices orders

The Office of Administrative Hearings (OAH) has issued three orders under the expedited data practices complaint process in Minnesota Statutes, section 13.085.

Of the three, two complaints were dismissed . In the other, the government entity was ordered to comply with the Data Practices Act.

The OAH orders, as well as additional information about this process, are posted on OAH's website.