



Advisory Opinion 11-018

This is an opinion of the Commissioner of Administration issued pursuant to Minnesota Statutes, section 13.072 (2011). It is based on the facts and information available to the Commissioner as described below.

Facts and Procedural History:

On October 21, 2011, the Information Policy Analysis Division (IPAD) received a letter dated October 19, 2011, from Kristi Hastings, an attorney representing School District 23, Frazee – Vergas Public Schools. In her letter, Ms. Hastings asked the Commissioner to issue an advisory opinion regarding the classification of certain data.

A summary of the facts as Ms. Hastings provided them is as follows. In the opinion request she wrote:

School District employees received reports from a student that lead [sic] the employees to file a mandatory report of maltreatment of a minor pursuant to Minnesota Statute § 626.556 with the local social services agency. ...

Ms. Hastings stated that the District then received a data request for certain data from the parent/guardian of the minor (who also is the individual alleged to have engaged in the maltreatment). She wrote:

What information must the District provide to the requestor in light of the mandatory report? Clearly, the District can withhold the names of the individuals who filed the § 626.556 report, but the District seeks guidance as to the other elements requested by the parent as it relates to his/her child (but also as to him/her as the subject of the allegations of abuse). The [parent/guardian] appears to be seeking surveillance video from the hallways and written communication between district staff and the social services agency and amongst district employees and administration. The surveillance videos would certainly show the identity of the district employees who made the mandatory report to the local social services agency.

Issue:

Based on Ms. Hastings' opinion request, the Commissioner agreed to address the following issue:

Pursuant to Minnesota Statutes, Chapter 13, what is the classification of certain data School District 23, Frazee – Vergas, maintains related to its filing of a report of maltreatment of a minor, pursuant to Minnesota Statutes, section 626.556?

Discussion:

Pursuant to Minnesota Statutes, Chapter 13, government data are public unless otherwise classified. (Minnesota Statutes, section 13.03, subdivision 1.)

Minnesota Statutes, section 13.32, classifies data that public educational institutions maintain about parents and students. With some exceptions, most data about parents and students are classified as private. (Minnesota Statutes, section 13.32, subdivision 3.)

Minnesota Statutes, section 626.556, is the statutory provision that addresses reporting of maltreatment of minors. In relevant part, subdivision 11 of section 626.556 states:

...all records concerning individuals maintained by a local welfare agency ... including any written reports filed under subdivision 7, shall be private data on individuals ... The records shall be collected and maintained in accordance with the provisions of chapter 13. ... An individual subject of a record shall have access to the record in accordance with those sections, except that the name of the reporter shall be confidential while the report is under assessment or investigation except as otherwise permitted by this subdivision. ... After the assessment or investigation is completed, the name of the reporter shall be confidential. ...

Given the facts as Ms. Hastings presented them, it appears some of the data in question might be classified by Minnesota Statutes, section 13.32, and some of the data are classified by Minnesota Statutes, section 626.556. It is also possible some of the data are classified by Minnesota Statutes, section 13.43 (personnel data). Because the Commissioner has not seen the data and does not understand the facts and circumstances as the District does, the District must make the determination as to what data are classified by which statute.

Data classified by Minnesota Statutes, section 13.32, are private – unless one of the exceptions in section 13.32 applies. Private data are accessible to the subject of the data. If the data subject is a minor, the parent/guardian has access to the data. (Minnesota Statutes, section 13.02, subdivision 8.)

Data classified by Minnesota Statutes, section 626.556, subdivision 11, also are private. However, the identity of the mandated reporter is confidential.

Finally, given the likelihood that some of the data in question, including the videos, are about multiple data subjects, the Commissioner notes his comments in Advisory Opinion 11-013 regarding data that may be inextricably intertwined:

In such cases, when one of the data subjects makes a request for access to data about him/herself, it is incumbent upon the government entity to try to separate the data and provide the requestor with data about him/her without releasing private data about the other data subject(s). If separation is impossible, it may be necessary for the entity to withhold the entire document.

In Advisory Opinion 04-014, the Commissioner discussed *Northwest Publications*:

In *Northwest Publications, Inc. v. City of Bloomington*, ... the Minnesota Court of Appeals held that entire documents may be withheld under Chapter 13 only when

public and nonpublic information is so inextricably intertwined that segregation of the material would impose a significant financial burden and leave the remaining part of the document with little informational value. The Commissioner has addressed similar issues in other advisory opinions. (See 03-018, 03-001, 00-065, 96-002, and 94-034.)

Therefore, if it is not possible for the District to appropriately redact the document, it may withhold the entire document. However, it is important to note that the Commissioner, as well as the court in *Northwest Publications, Inc.*, maintains that denial of access of data should occur only in situations where it is impossible to separate or redact the data appropriately.

Opinion:

Based on the facts and information provided, the Commissioner’s opinion on the issue that Ms. Hastings raised is as follows:

It appears the data in question are classified either by Minnesota Statutes, sections 13.32 or 626.556, subdivision 11. It is also possible that some of the data are classified by Minnesota Statutes, section 13.43. If the data are private, the data subject has access to the data about him/her. If the data subject is a minor, his/her parent/guardian has access to the data. The identity of the mandated reporter is confidential.

Signed: 

Spencer Cronk
Commissioner

Dated: _____
December 9, 2011