



Advisory Opinion 13-008

This is an opinion of the Commissioner of Administration issued pursuant to Minnesota Statutes, section 13.072 (2012). It is based on the facts and information available to the Commissioner as described below.

Facts and Procedural History:

On February 6, 2013, the Information Policy Analysis Division (IPAD) received an advisory opinion request from Dennis M. Devereaux, legal analyst for the Minnesota Department of Veterans Affairs. In his letter, Mr. Devereaux asked the Commissioner to issue an advisory opinion regarding certain data that the Department maintains.

Mr. Devereaux provided a summary of the facts as follows:

The Minnesota Department of Veterans Affairs operates [five] Minnesota Veterans Homes.... Each Home has an Administrator, who is responsible for the 24/7 operation of the Home. Each Administrator is appointed and receives their authority to act under Minnesota Statutes §198.005 which states:

The commissioner shall appoint an administrator for each of the veterans homes. The administrators act as the administrative head for their respective veterans homes. The administrators serve at the pleasure of the commissioner and report directly to the commissioner.

The question that we request an Advisory Opinion on is, whether an Administrator of a Minnesota Veterans Home is or is not a "Public Official".

Minnesota Statute §13.43 Subdivision 2(e)(3) provides [that]executive or administrative head of departments, bureaus, divisions or institutions [are public officials]. We contend that a Minnesota Veterans Home is clearly an institution within the meaning of the Statute and that each Administrator is clearly the administrative head based upon their appointment and their authority to act.

Issue:

Based on Mr. Devereaux's opinion request, the Commissioner agreed to address the following issue:

Is an Administrator of a Minnesota Veterans Home a "public official" for purposes of Minnesota Statutes, section 13.43, subdivision 2(e)(3)?

Discussion:

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

Minnesota Statutes, section 13.43, classifies data on individuals who are current or former employees of, as well as applicants for, a government entity. Under Minnesota Statutes, section 13.43, certain personnel data are classified as either private or public, depending on whether the employee is or is not a “public official.”

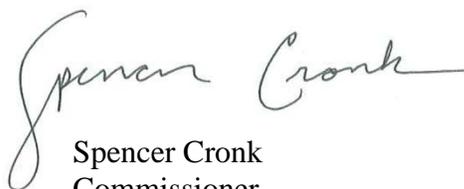
Of relevance here, under section 13.43, subdivision 2(e)(3), the following public employees are considered to be public officials: “executive or administrative heads of departments, bureaus, divisions, or institutions within state government.”

Mr. Devereaux stated, “a Minnesota Veterans Home is clearly an institution within the meaning of the Statute and ... each Administrator is clearly the administrative head based upon their appointment and their authority to act.” The Commissioner concurs. According to the plain language of section 13.43, subdivision 2(e)(3), each administrator of a Minnesota Veterans Home is a public official.

Opinion:

Based on the facts and information provided, the Commissioner’s opinion on the issue Mr. Devereaux raised is as follows:

An Administrator of a Minnesota Veterans Home is a “public official” for purposes of Minnesota Statutes, section 13.43, subdivision 2(e)(3).



Spencer Cronk
Commissioner

March 19, 2013