- Statewide resource on Minnesota's data practices and open meeting laws

  ✓ Informal advice/technical assistance to government, public, media and Legislature

  ✓ Website, newsletters, Twitter

  ✓ Advisory opinions

  ✓ Legislative assistance

  ✓ Training

Government Data Practices

Minnesota Statutes, Chapter 13

Why is government data practices so important?

- The Data Practices Act advances open government, accountability, and transparency

- The law promotes the ability of our citizens to know and gain understanding of the decisions made by their government

- In Minnesota, our law presumes that everything government creates as part of its official duties is public

  - This means, for example, that your email correspondence is public, unless there is a specific state or federal law that allows you to protect it from the public

Government Data Practices Act (Minnesota Statutes, Ch. 13)

- The Data Practices Act:

  - Defines government data

  - Presumes government data are public

  - Classifies certain data as not public

  - Provides rights for the public and data subjects

  - Requires that data on individuals are accurate, complete, current and secure

  - Does not apply to the Legislative or Judicial branches

Other Data Practices Laws

- Official Records Act (Minnesota Statutes, section 15.17)

  - Entities must make and preserve records that document official activities

- Records Management Statutes (Minnesota Statutes, section 138.17)

  - Requires entities to keep and destroy records according to a records retention schedule

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."

Classification of Government Data

Classification	Meaning of Classification	Examples
Public	Available to anyone for any reason	Government employee's name
Private/Nonpublic	Available to: • Data subject • Those in the entity whose work requires access • Entities authorized by law • Those authorized by data subject	Social security numbers
Confidential/ Protected nonpublic	Available to: • Those in the entity whose work requires access • Entities authorized by law **Not available to data subject**	Active civil or criminal investigative data

Responsible Authority, Compliance Official & Polices

- Your Council must appoint a Responsible Authority (RA) for data practices

  - The RA is responsible for the collection, use and dissemination of your Council's government data

- The RA must appoint a Data Practices Compliance Official (DPCO)

  - RA can serve as DPCO

  - DPCO is responsible for day-to-day data practices duties

- Two required policies

  - Responding to public data requests

  - Data subject rights and responding to data subject requests

Application of Data Practices

- Data about you – Minn. Stat. § 13.601

  - Some are public and some are private

  - Examples of public data include:

    - Name

    - Residential address

    - Education and training background

    - Email address or telephone number

    - Existence/status of complaints about you

- Use of personal portable computing devices (laptop, iPad, smart phone, etc.) for Council duties

  - Council-related data on these devices are government data

Open Meeting Law

Minnesota Statutes, Chapter 13D

Key Discussion Issues – Open Meeting Law

- When does the Open Meeting Law (OML) apply

  - Groups subject

  - Meetings subject

- Types of meetings

  - Meeting notices

- Closed meetings

- Special considerations

Open Meetings

- With limited exceptions, all meetings of public bodies must be open to the public

  - The public can attend open meetings

- Meetings subject to the law

  - The "quorum rule" (*Moberg v. Independent School District No. 281*, 336 N.W.2d 510 (Minn. 1983).)

  - Two parts:

    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

- Regularly scheduled meetings

  - Schedule of meetings on file at primary office

- Special meetings

  - Any meeting not on the regular schedule

  - 3-day advance posting on website, including date, time, place, and meeting purpose

- Emergency meetings

  - Special meetings called because circumstances don't allow for a 3-day prior notice

  - Good faith effort to notify media that requested notice

Types of Meetings Not Covered by the Law

- Meetings of less than a quorum of members

- Chance or social gatherings

  - Banquets, parties, etc.

- Trainings

  - No discussion of official business

  - Advisory Opinion 16-006

    - Public body may meet in private facilitated discussions designed to "improve trust, relationships, communications, and collaborative problem solving" among members without violating OML

Special Considerations

- Use of email

  - Avoid "discussion"

  - Advisory Opinion 09-020:

    - Public body did not comply with OML when exchanging certain email messages relating to official activities

    - One-way communication between the chair/staff and members of a public body is permissible, such as sending meeting materials via email to all board members, with no discussion or decision-making

- "Serial meetings"

  - Meetings of less than a quorum

  - Avoid public meetings to fashion agreement

  - Might be a violation

Closed Meetings

- Meetings can be closed only if required or permitted in the law

- All closed meetings, except those closed by attorney-client privilege, must be recorded

- No general "personnel exception" to close a meeting

- Statement on the record before closing a meeting

  - Legal authority to close the meeting

  - Describe what will be discussed

- Public bodies may or must close certain other meetings under the law, including as permitted by the attorney-client privilege

- *State-level* public bodies may hold telephone meetings at **any time** if conditions are met

- Requirements:

  - All members can hear one another and testimony

  - Public can hear discussion, votes, testimony

  - One member "of the entity" is physically in the regular meeting room

  - Votes taken by roll call

- Public may monitor from remote site, if practicable

- Notice that members may participate remotely

- 10 days in advance web-posting requirement

- Advisory Opinion 18-018

- Any public body may hold meetings by telephone or other electronic means if:

  - Presiding officer, chief legal counsel, or chief admin officer determines in-person meeting is not practical or prudent due to a health pandemic or emergency declared under Ch. 12

- Meeting requirements:

  - All members can hear one another and testimony

  - Public can hear discussion, votes, testimony at regular meeting room, unless not feasible

  - One member "of the entity" in the regular meeting room, unless unfeasible

  - Votes taken by roll call

- Public may monitor from remote site, if practicable

- Notice that members may participate remotely

- Advisory Opinion 18-018

- Intentional violation

    - Personal liability - $300 fine

- Three, separate intentional violations

    - Forfeit office

- Reasonable costs, disbursements, attorneys fees

- No reversal of public body actions taken while in violation of the law

- Public bodies may discuss not public data

  - Disclosure must relate to a matter within scope of authority

  - Reasonably necessary to conduct business or agenda item before the body

- Data retain original classification

  - Record of the meeting is public

- Recordings

  - Record all closed meetings, except under attorney-client privilege

  - Recordings are public with not public data removed

Questions?

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Data Practices Office website: *https://mn.gov/admin/data-practices/*