

## Requesting a Data Practices Advisory Opinion

While the Data Practices Office responds to data practices questions on an informal basis - via telephone or email - at any time, the Commissioner of Administration also has authority to issue formal, non-binding advisory opinions on certain issues related to the Data Practices Act (Minnesota Statutes, Chapter 13) in limited circumstances. **No fee is required.** The Data Practices Office handles matters relating to advisory opinions and prepares drafts on behalf of the Commissioner.

- A government entity subject to Chapter 13 can request an opinion on questions relating to public access to data, rights of data subjects, and classification of data. (See Minnesota Statutes, section 13.072, subdivision 1 (a)).
- A member of the public who disagrees with a government entity's determination regarding data practices can request an opinion regarding the person's rights as a subject of government data or right to access government data. (See Minnesota Statutes, section 13.072, subdivision 1 (a)).

**Please note the following.** The Commissioner will not accept an opinion request in which the issues giving rise to the request are no longer timely. Advisory opinions are based upon the written record provided to the Commissioner. The Commissioner does not have fact-finding authority. The Commissioner will not accept opinions that give rise to a conflict of interest for the Commissioner (e.g., opinion requests involving the Department of Administration or the Governor).

To make a request

- Write (email or letter) to the Commissioner of Administration, c/o Data Practices Office at [info.dpo@state.mn.us](mailto:info.dpo@state.mn.us) or 200 Administration Building, 50 Sherburne Ave., St. Paul, MN 55155
- State that you are requesting an advisory opinion.
- Explain the facts briefly. Provide a clear, concise statement of your position and provide an analysis of the issues. State the issues you want the Commissioner to address.
- Provide copies of any related documentation or correspondence, including a copy of the original data request (if applicable) and any response, as well as citations to any relevant statutes, rules, or case law. Our process does not allow for rebuttals, so this is your opportunity to submit a complete explanation and all relevant documentation that you want the Commissioner to consider in the opinion.
- Please let us know if you are or have been involved in litigation relating to the data practices issue. The Commissioner will not accept an opinion request on an issue that is currently in court or has been the subject of a judge's order or decision.
- The Commissioner does not accept anonymous opinion requests. (If your request is accepted and the data at issue reveal private data about you, the opinion can refer to you using a pseudonym.)

Upon receiving your request, the Commissioner will evaluate it

- The Commissioner's authority to issue advisory opinions is permissive. This means the Commissioner has the right to refuse your opinion request. If the Commissioner rejects your opinion request, we will send you a letter within five business days.
- If the Commissioner needs more information to move forward with your opinion request, we will contact you.
- If the Commissioner accepts your request, we will send you a confirmation letter.
- While we respond to all formal advisory opinion requests in some manner, we can resolve many of the requests outside the formal opinion request process in a more expedient way. In the majority of situations, we are able to provide specific guidance in an email or letter, direct the opinion requester to prior advisory opinions on the requested topic, and/or provide informal resolution services by contacting government entities to resolve disputes.

**Please contact the Data Practices Office before submitting an opinion request if you have questions as to whether the commissioner has authority to address your concerns.** This will give us a chance to discuss the issues in question with you and to determine whether they fall within the Commissioner's authority and specify the information/documentation we will need as part of the opinion request.