



Government Data Practices Act & Open Meeting Law Overview

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Data Practices Office

MN Government Data Practices Act

Minnesota Statutes, Chapter 13

Minnesota Government Data Practices Act

Minnesota Statutes, Chapter 13

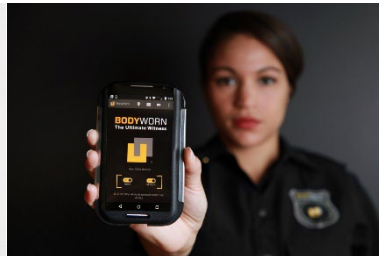
- Regulates how government administers government information
- Tries to maintain proper balance:
 - Public's right to access public government data
 - Privacy rights of individuals
 - Government's need to conduct business properly and efficiently



What are government data?

All data collected, created, received, maintained or disseminated by any government entity regardless of its physical form, storage media or conditions of use.

(Minn. Stat. § 13.02, subd. 7)



Public presumption and classification

- Minnesota Statutes, Chapter 13
 - Presumes government data are public
 - Classifies data as not public
 - Provides rights for the public and data subjects
 - Requires that data on individuals are accurate, complete, current, and secure

Other data practices related laws

- **Official Records Act**

(Minn. Stat. § 15.17)

- Make and preserve all records necessary to a full and accurate knowledge of official activities



- **Records Management Statute**

(Minn. Stat. § 138.17)

- Records retention schedules and records disposition panel
- MN State Archives website:
<https://www.mnhs.org/preservation/state-archives>



Government data

Data on Individuals

Data that identify someone

- Employee's telephone number
- Name and address of adult arrestee
- Athlete of the week photograph

Data not on Individuals

Data that do not identify someone

- Makes and models of fleet trucks
- Names of companies that are preferred vendors
- List of government websites

Classification of government data

Classification	Meaning of classification	Examples
Public	Available to anyone for any reason	Employee name and salary
Private/Nonpublic	Available to: • Data subject • Those in the entity whose work assignment requires access • Entities authorized by law • Those authorized by data subject	Employee home address and telephone number
Confidential/ Protected nonpublic	Available to: • Those in the entity whose work assignment requires access • Entities authorized by law NOT available to the data subject	Data collected as part of an active civil legal action

Application of Data Practices

- Data you create as part of your work is subject to Ch. 13
- Use of personal devices/accounts for board duties
 - Board-related data on these devices are government data
- Remember the general public presumption
- As appointed board members, data about you are public and private (Minn. Stat., sec. 13.601)
 - Public data include name, residential address, education and training background, email address or telephone number, existence/status of complaints about you

Penalties and Remedies

- Civil remedies (Minn. Stat. §13.08)
 - Action for damages, costs, and attorney fees
 - Action to compel compliance
- Administrative remedy (Minn. Stat. §13.085)
 - Administrative hearing within 2 years of alleged violation
 - Action to compel compliance
- Penalties (Minn. Stat. §13.09)
 - Willful violation or breach = misdemeanor
 - Dismissal or suspension

Open Meeting Law

Minnesota Statutes, Chapter 13D

Open Meeting Law

Minnesota Statutes, Chapter 13D

- With limited exceptions, all meetings of public bodies must be open to the public
 - The public can attend open meetings
- Minnesota Supreme Court stated three purposes for the OML:
 - To prohibit actions taken at secret meetings
 - To assure the public's right to be informed
 - To give the public an opportunity to present its views to the public body
 - BUT the OML does not require public bodies to reserve time for public comment

What is a “meeting” subject to the law?

- Gatherings subject to the law
 - The “quorum rule” (*Moberg v. Independent School District No. 281*, 336 N.W.2d 510 (Minn. 1983).)
 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
- Gatherings not subject to the law
 - Gatherings of less than a quorum of members
 - Chance or social
 - Training/team building activities so long as business is not discussed
- Keep in mind – public perception!

Types of Meetings

- Regularly scheduled meetings
 - Schedule of meetings on file at primary office or posted on the website
- Special meetings
 - Any meeting not on the regular schedule
 - Notice must include date, time, place, and meeting purpose
 - 3-day advance posting on the principal bulletin board of the public body, or if none, on the door of its usual meeting room
 - posting on website can satisfy additional publication requirements
- 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

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 (1 of 2)

Minnesota Statutes, section 13D.05

- Meetings can be closed only if required or permitted in the law
 - Must be closed: Minn. Stat. sec. 13D.05, subd. 2
 - May be closed: Minn. Stat. sec. 13D.05, subd. 3
- “Not public data” is not a basis, on its own, to close a meeting
- Public bodies may discuss not public data in an open meeting without liability when:
 - The disclosure relates to a matter within the scope of the public body’s authority and
 - Is reasonably necessary to conduct the business or agenda item before the body
- Exception: Enabling Legislation

Closed Meetings (2 of 2)

Minnesota Statutes, section 13D.05

- Statement on the record before closing a meeting
 - Legal authority to close the meeting
 - Describe what will be discussed
- All closed meetings must be recorded (except meetings closed for attorney-client privilege)

Meetings & Technology

Minnesota Statutes, section 13D.015

- ***State-level*** public bodies may hold phone or interactive tech 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

Records of Meetings

- OML does not specifically require preparation of agenda or minutes; however,
 - Public bodies must record and maintain votes of their members (Section 13D.01, subd. 4)
 - Minnesota's Official Records Act ([Minnesota Statutes, section 15.17](#)) requires public bodies to “make and preserve all records necessary to a full and accurate knowledge of their official activities.”
- A record of an open meeting, regardless of its form, shall be public (Minn. Stat., sec. 13D.05, subd. 1)
 - Keep this in mind if you use technology to record/document meetings

Penalties & Remedies

- Intentional violation (Minn. Stat. § 13D.06, subd. 1)
 - Personal liability – \$300 fine
- Three intentional violations (Minn. Stat. § 13D.06, subd. 3)
 - Forfeit office
 - *Funk, et al. v. O'Connor, et al.*, 916 N.W.2d 319 (Minn. 2018)
- Reasonable costs, disbursements, attorney fees (Minn. Stat. § 13D.06, subd. 4)
- No reversal of public body actions taken while in violation of the law

Data Practices Office (DPO)

- Statewide resource on Minnesota's data practices and open meeting laws
 - Informal advice/technical assistance to government, public, media and Legislature
 - Website, newsletters, YouTube
 - Advisory opinions
 - Legislative assistance
 - Training

Connect with DPO

Phone: 651-296-6733

Email: info.dpo@state.mn.us

Website: mn.gov/admin/data-practices

YouTube: <https://www.youtube.com/user/INFOIPAD>

Thank you!

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