

Data Practices in Minnesota



**PARTNERS IN
POLICYMAKING
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Why should you care?



- **Do you have a driver's license?**
- **If you have a house, do you have a mortgage?**
- **Do you have children in a public school?**
- **Do you file a state income tax return?**
- **Do you have a library card?**
- **Do you participate in a city recreation program?**
- **Does a family member receive services through a county social services department?**

This training will provide you



- **A framework for thinking about data practices laws**
- **An outline of key components**
- **A chance to ask questions**

Where to find laws and rules



Minnesota Statutes and Rules that are referred to in this presentation can be found in any public library and are on-line at:

<https://www.revisor.mn.gov/pubs/>

What is covered?



- **“Data”**
 - **Element level**
 - **First name, year of birth**
- **Not a record**
- **Not a file**
- **Not information**

Media doesn't matter



Laws and rules apply regardless of medium of storage

Examples of “media”

- ❖ **Paper**
- ❖ **Microform**
- ❖ **Electronic**
- ❖ **Email**
- ❖ **Audio**
- ❖ **Video**

Who is covered?



- **State agencies/constitutional officers**
- **Counties**
- **Cities**
- **School districts**
- **Soil and water conservation district**
- **Mosquito control district**
- **Those under contract with any of the above**

Who is not covered



- **Most townships outside the metro area**
- **Legislature**
- **Courts**
- **Private sector (unless under contract)**

Three basic laws of data practices

Relationship of life cycle of data and Minnesota Data Practice Laws			
Create & maintain	Creation of data	Official Records Act	Minn. Stat. sec. 15.17
Use & disclose	Life of data	Data Practices Act	Minn. Stat. ch. 13
Dispose	End of data	Records Management Statute	Minn. Stat. sec. 138.17

What is an “official record?”



- **Documents official activity**
- **Needed to understand action in future**
- **Documents course of conduct**
- **Will be used as basis for future action**
- **Stored in any media**

Minnesota Government Data Practices Act



- **Minnesota Statutes, Chapter 13**
- **Defines government data**
- **Presumes data are public**
- **Classifies data that are not public**

Assures public access



- **Arrange the filing or electronic organization**
- **Easily accessible for convenient use**
- **Access to public data provided when requested**
- **Ask how data are kept**

Who to ask



- **Responsible authority**
 - **State agency head**
 - **Constitutional officer**
 - **Elected official**
 - **Employee appointed by governing board; default positions established in 2012**
- **Designee**
- **Public document**

Limits costs for copies



- **Inspection is free**
- **Government can charge to research public data**
- **Government can't charge to redact**
- **Publications on copy costs available at <https://mn.gov/admin/data-practices/>**
 - **Choose “data practices,” “rules and requirements” and click on “copy costs”**

Provides time frame



- **Appropriate, prompt & reasonable - public data**
- **10 working days for data about individual**

Classification of data



- ❖ **Public – can be seen by anyone**
- ❖ **Private – can be seen by individual, government employee with need to know, those authorized by law**
- ❖ **Confidential – government employee with need to know, those authorized by law**

Who can see private data?



- **Individual data subject**
- **Authorized by state or federal law**
- **Work assignment reasonably requires access**
- **Those with the consent of subject**
- **Minnesota Rules, section 1205.0400, subpart 2**

Access by parents



- **Parent or guardian**
- **Individual acting in absence of parent/guardian**
- **Court orders terminating parental rights**
- **Minor's ability to request that data not be released – except at school**

Who can see confidential data?



- **Work assignment reasonably requires access**
- **Authorized by state or federal law**
- **Minnesota Rules, section 1205.0600, subpart 2**

Data collection



- **“Tennessean warning”**
- **Private or confidential data**
- **Notice before collection**
 - ✓ **Purpose and intended use internally**
 - ✓ **Mandatory or voluntary**
 - ✓ **Known consequences of providing**
 - ✓ **Known consequences of not providing**
 - ✓ **Recipients outside collector**

Informed Consent



- **Private data**
- **Government entity should require some form of identification as part of the consent**
- **Written permission to release to 3rd party**
- **You choose which data you will release to the 3rd party**

Data challenges



- **Data about living human beings**
- **Public or private**
- **Accurate/complete**

- **Process**
 - **Where data held**
 - **Appeal to Commissioner of Administration**
 - Information at <https://mn.gov/admin/data-practices/under> “Data Practices” and then choose “Challenges and Appeals”

Records management



- ▶ **A records retention schedule is a plan for the management of records, it lists them and how long they should be kept.**
- ▶ **There are separate general retention schedules for state agencies, counties, cities, and school districts.**
- ▶ **For more information about general records retention schedules, you can check with the records manager or State Archives at the Minnesota Historical Society.**

Making a request



- **Responsible authority**
- **Data versus question**
- **Basis for denial**
- **Volume**
- **Negotiation**

Data in public schools



- **Federal law – Family Educational Rights and Privacy Act (FERPA)**
- **State law – section 13.32**
- **Parents always get access**
- **Most sharing is by consent**

Data in social service agencies



- **State agency; counties**
- **Data are classified as private**
- **Responsible authority is director of department/division at county level (section 13.46, subd. 10)**

Public personnel data



- ▶ **Name, gross salary, fringe benefits, expense reimbursement**
- ▶ **Job title, job description, education & training, previous work experience**
- ▶ **Date of first and last employment**
- ▶ **Existence and status of any complaints**
- ▶ **Final disposition of any disciplinary action with specific reasons**
- ▶ **Terms of any agreement settling a dispute**
- ▶ **Work location, phone, badge, honors, awards**
- ▶ **Payroll time sheets**

Law enforcement data - adults



- **Some data always public**
- **Some data may be protected**
- **Classification changes over time**
- **Section 13.82**

Law enforcement data - juveniles



- **Limited data available**
- **Age of juvenile may have impact**
- **Section 260B.171, subdivision 5**

PCA case



- **PCAs in northern MN got “choice day”**
- **Data included case manager**
- **Court said not a violation of FERPA**
- **Admin said was a violation of FERPA because case manager disclosed student data**
- **Why the difference?**

Assistance available



Data Practices Office

MN Department of Administration

320 Centennial Office Building

658 Cedar Street

St. Paul, MN 55155

V: 651-296-6733 or 1-800-657-3721

E: info.dpo@state.mn.us

W: <https://mn.gov/admin/data-practices/>



Questions?

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