



IPAD Government Data Practices/Open Meetings Policy Proposal

In keeping with IPAD's mission to promote understanding of and compliance with the Minnesota Government Data Practices Act (Minnesota Statutes, Chapter 13), the Open Meeting Law (Minnesota Statutes, Chapter 13D) and other privacy and government openness laws, the goal of IPAD's policy bill is to make changes that promote clarity, readability, and an overall better understanding of government data practices (Minnesota Statutes, chapter 13) and open meetings (Minnesota Statutes, chapter 13D).

Changes to 'person' and 'individual'

Issues: Various places within Chapter 13 use the defined term "person" where the defined term "individual" is the appropriate term. In addition, the definition of "person" does not include "government entity" and there are situations throughout Chapter 13 where a government entity should be included. The definition of "individual" is amended to make it consistent with the definition in the Rules to mean a "living human being."

- Amends the definition of 'individual' from a "natural person" to a "living human being"
- Amends definition of 'person' to include a government entity
- Corrects references to 'person' or 'individual' to reflect each applicable definition

Responsible Authority (RA)

Issue: IPAD's citizen customers have difficulty in making data requests to the correct person when the RA of a governing body has not been appointed.

- Amends the definition of RA to clarify that the chair of a political subdivision's governing body is the RA, if one is not designated

Summary Data

Issue: There is often confusion about complying with summary data requests because some of the requirements are in the administrative rules while other guidance is in the statute. Incorporating the Rules language into the statute will help to alleviate some of this confusion.

- Amends definition of summary data to include all not public data and clarifies that summary data are not derived solely from public data
- Incorporates current administrative rules on summary data into statute

Government Entity Obligations

Issue: This change promotes clarity in placing the obligations of government entities in creating a data inventory and policies into one section. Currently, these obligations are in various sections which has caused confusion and decreased compliance by government entities.

- Places a government entity's obligations of creating data practices policies and a data inventory into one statute section
- Removes a mandate that public access procedures be updated every year by August 1

GIS Data Sharing

Issue: This change addresses barriers to enhanced intergovernmental sharing of geospatial data.

- Provides that geospatial data can be shared at no cost or liability between government entities, eliminating the need for agreements to be negotiated and entered into between government entities

Judicial Branch Traveling Data

Issue: This change addresses confusion when there is a specific classification at a government entity that receives data from a court. Generally, the data would be public based on Minnesota court rules, but this change allows the data to be classified according to the government entity's specific classification.

- Clarifies the provision relating to data that travel from the judicial branch to government entities, requiring a government entity to maintain the data as classified by state or federal law if a specific classification exists

Data Challenge Appeals

Issues: These changes promote clarity in the data challenge and appeal process. Citizens often do not receive a written determination from an RA and this change clarifies that one is required. In addition, government entities sometimes use staff resources addressing improper data challenges that are actually challenging the process, rather than the accuracy of data.

- Clarifies that an RA must make a written determination on a data challenge
- Clarifies that a data subject cannot challenge an entity's policy, procedure or process
- Allows the Commissioner to maintain data submitted as part of the appeal classified in the same manner as they are classified at the government entity

Security Information

Issue: This change promotes consistency in declaring data to be security information in requiring a specific determination from an RA.

- Requires a written determination by the RA about security information and requires a short description explaining the necessity for classifying the data as security information

Civil Investigative Data

Issue: This change responds to the issue of government entities declaring otherwise public data to be not public civil investigative data when the sole dispute is a data request rather than pending legal action.

- Provides that the civil investigative data provisions do not apply when the sole issue or dispute is a government entity's timeliness in responding to a data request

Personnel Data

Issues: These changes clarify that all parts of this section apply to both current and former employees based on the conclusion in a 2010 advisory opinion. This also removes elected officials at the local government level (such as cities, counties, and school districts) from coverage of this section to provide consistency in application – currently government entities can choose whether elected officials are covered by the personnel data section based on prior advisory opinions and AG opinions. (Note: The elected official changes do not impact constitutional officers or state legislators because the Legislature is not subject to the Data Practices Act.)

- Clarifies that the personnel data section applies to current or former government entity employees
- Excludes elected officials, except for constitutional officers, from the personnel data section

- Makes technical changes to incorporate all individuals covered by the personnel data section (e.g. changes 'employee' to 'individual subject to this section')
- Removes elected officials from the 'public official' definition to make that definition consistent with excluding all elected officials from the personnel data section
- Excludes candidates for elected office from the 'applicant data' subdivision

Welfare Investigative Data

- Clarifies that the exception to disclosure for preparation of a defense must be through the rules of discovery

Applicants for Appointment

Issue: This provides consistency in making the same data public about applicants for appointment that are already public about applicants for employment in MS 13.43.

- Adds the following to the list of public data about applicants for appointment to a public body: first and last dates of service, existence and status of complaints about an appointee, and final investigative report upon completion of an investigation of a complaint against an appointee

Inactive Financial Transaction Investigative Data

Issue: This change addresses concerns about identity theft in including financial transaction data as part of an otherwise public inactive investigative data file.

- Classifies inactive criminal investigative data related to a person's financial accounts as not public

Open Meeting Law

Issue: This change clarifies that the 10-day web posting requirement for state-wide bodies applies only to regular meetings. It would not be legally possible to require a 10-day notice for either special or emergency meetings.

- Clarifies that the web posting requirement for state-wide bodies meeting by telephone or other electronic means is 10 days prior to any regular meeting