
Minnesota Government Data Practices Act

A Data Practices Overview

The Government Data Practices Act, [Minnesota Statutes, chapter 13](#), as amended through the 2005 first special session, creates a presumption that state and local government records are accessible to the public, unless a statute or rule provides otherwise.

This information brief outlines the most significant procedural features, rights, and remedies in the act. Like any overview, the information brief should be read as a condensed guide to the statute, not a substitute for it. Readers also should be aware that many data classifications exist in statutes other than the Government Data Practices Act. Those other statutes are cross-referenced in [Minnesota Statutes, chapter 13](#).

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The Government Data Practices Act contains many of the statutory provisions that classify various types of government data as other than public, and thus restricts access to the data in some way. The act also contains the following major features:

- Procedures for government agencies to follow in collecting and keeping records
- Procedures for individuals to follow in inspecting and copying government records
- Special protections for individuals who are being asked to supply information about themselves, seeking to obtain records government holds on them, or wishing to correct erroneous government data about themselves
- Procedures for getting advisory opinions on access to government data
- Civil remedies and criminal penalties for violating the act

Data and Entities Covered by the Act

The act applies to information in any form held by certain government agencies.

Data Covered	All information in any form (written, computerized, on recording tape, microfilm, etc.) collected, created, received, maintained, or disseminated by government (Minn. Stat. § 13.02 , subd. 7)
Entities Covered	State agencies Political subdivisions Statewide systems (combinations of state agencies and/or political subdivisions) Corporations and nonprofit social service agencies under contract with a government entity (Minn. Stat. §§ 13.02 , subd. 7; 13.05 , subd. 6)
Entities Excluded	The act provides that judicial branch data classifications and access are to be governed by the rules of public access to records of the judicial branch, adopted by the Minnesota Supreme Court (Minn. Stat. § 13.90)

Data Classifications

The act creates a presumption that unless otherwise provided by law, all government data are public. The act then specifies (1) by what authority public access can be limited, and (2) possible data classifications other than public.

Presumption All government data are public (can be inspected and copied by anyone) ([Minn. Stat. § 13.03](#), subd. 1)

Exceptions Access to government data can be limited by

- federal statute
- state statute
- temporary classification

([Minn. Stat. § 13.03](#), subd. 1)

Kinds of Classifications Data that are not public are classified in one of the following ways:

- **private:** data identifying an individual that are only available to the individual or with the individual’s consent ([Minn. Stat. § 13.02](#), subd. 12)
- **confidential:** data identifying an individual that are not available to anyone outside the entity holding the data, including the individual ([Minn. Stat. § 13.02](#), subd. 3)
- **nonpublic:** data on a business or other entity that are only available to the subject of the data or with the subject’s consent ([Minn. Stat. § 13.02](#), subd. 9)
- **protected nonpublic:** data on a business or other entity that are not available to the subject of the data or anyone else outside the entity holding the data ([Minn. Stat. § 13.02](#), subd. 13)

Classifications of Data Under the Minnesota Government Data Practices Act			
Type of Data	Subject of Data (individual or entity)	Access (to whom data are available now)	When Data Become Available to Public
General Rule	Individual, business, or other entity	Public	Upon creation or receipt of the data
Private Data	Individual	Individual who is the subject of the data	1) Immediately with consent of data subject, or 2) The later of 30 years after creation or ten years after death of the subject
Confidential Data	Individual	Government entity only	
Nonpublic	Business or other entity	Business or entity that is the subject of the data	1) Immediately with consent of data subject, or 2) Ten years after creation or receipt (unless agency determines not in public interest)
Protected Nonpublic	Business or other entity	Government entity only	

Data Classification Changes

In general, data retains the classification provided in statute even if it is transferred from one entity to another. The act contains provisions on when the original classification of various types of data changes.

Statutes and Rules on Particular Data

A particular data classification changes (1) if a specific statute so provides, or (2) if change is required by judicial or administrative rules of procedure. Access to data is controlled by the law at the time of the request, regardless of the law when the data were collected or created. ([Minn. Stat. § 13.03](#), subds. 4 and 9)

Data on Entities

All nonpublic and protected nonpublic data, except for security information,¹ become public either

- ten years after the government agency created it, or
- ten years after the government agency received it, unless the agency decides that reclassification would do more harm than benefit to the public or data subject. Anyone who objects to this decision may bring a district court action for release of the data. ([Minn. Stat. § 13.03](#), subd. 8)

Data on Decedents

When an individual who was the subject of government data dies, data on the individual changes classification as follows.

- Data that were private or confidential during the individual's lifetime become public ten years after the actual or presumed death and 30 years after creation of the data. An individual is presumed dead 90 years after the individual's birth or the creation of the data, whichever is earlier. The presumption does not apply if evidence shows the individual is still living. ([Minn. Stat. § 13.10](#), subd. 2)
- The representative of the decedent's estate or a trustee appointed in a wrongful death action may exercise the data subject rights conferred on the decedent by the act. Nonpublic data on a decedent created or collected after death are accessible to this representative. Any person may bring an action in district court to obtain release of private or confidential data on a decedent. ([Minn. Stat. § 13.10](#))

¹ "Security information" means government data whose disclosure would jeopardize the security of information, possession, individuals, or property against theft, improper use, temporary, attempted escape, illegal disclosure, trespass, or physical injury. [Minn. Stat. § 13.37](#), subd. 1, para (a).

Data in Archives When government data are transferred to the state archives under [section 138.17](#), whether the data relate to individuals or entities, they are no longer classified as anything other than public. Access and use are determined by the statute governing the state archives, [Minnesota Statutes, section 138.17](#), subdivisions 1 and 1c. ([Minn. Stat. § 13.03](#), subd. 7)

Commissioner of Administration's Duties

The Commissioner of Administration has three major responsibilities under the act as it applies to all government entities: (1) issue rules to implement and enforce the act; (2) issue temporary data classifications as appropriate; and (3) issue advisory opinions as requested.

Rulemaking Rules must be adopted under the Administrative Procedures Act. Rules may not alter the statutory provisions on the rights of data subjects. The rules are codified at [Minnesota Rules, chapter 1205](#). ([Minn. Stat. § 13.07](#))

Temporary Classifications The act allows a state agency, statewide system, or political subdivision to apply to the Commissioner of Administration for a temporary data classification, which remains in effect until the legislature can act on a proposed classification statute. The application is public. ([Minn. Stat. § 13.06](#), subd. 1)

The application must establish that

- no existing statute classifies the data in question; and
- similar data has been treated as not public by government agencies and the general public; or
- there is a compelling need for immediate classification so as not to adversely affect the public interest or make a program unworkable; or in the case of data on an individual, so as not to adversely affect the individual's health, safety, or reputation. ([Minn. Stat. § 13.06](#), subd. 2)

If the commissioner determines that a particular classification request by one government agency should reasonably apply to similar data held by all similar agencies, the commissioner has the power to grant the classification to all appropriate agencies. ([Minn. Stat. § 13.06](#), subd. 4)

When an application is filed, the data have the requested classification for 45 days or until the commissioner acts on the application, whichever is first. ([Minn. Stat. § 13.06](#), subd. 1)

If the commissioner denies an application, he or she must explain why. A rejected application may be amended and re-submitted. ([Minn. Stat. § 13.06](#), subd. 5)

If approved, a temporary classification is effective immediately and must be submitted to the legislature in bill form the next year. It also must be submitted to the attorney general for review for form and legality. A temporary classification expires June 1 of the year after it is submitted to the legislature, unless enacted into law by then. ([Minn. Stat. § 13.06](#), subd. 7)

Commissioner's Data Practices Opinions

The act authorizes the Commissioner of Administration to give a written opinion on a question about access to government data, rights of data subjects, or data classifications under any provision of Minnesota Statutes. It allows the commissioner, on request of a person who disagrees with a data practices determination by a state agency, state system, or political subdivision, to give a written opinion about the person's access rights or rights as a subject of data. The commissioner must release opinions under this section to the public. ([Minn. Stat. § 13.072](#), subds. 1 and 2)

If the commissioner decides not to issue an opinion, he or she must so notify the requester. When an opinion is to be issued, the entity holding the data must be allowed to explain its decision regarding access. The commissioner or other entity may choose to notify the data subject of the dispute about the data. ([Minn. Stat. § 13.072](#), subd. 1)

An entity or person that conforms to a written commissioner's opinion is not liable for damages or a penalty under the Government Data Practices Act. ([Minn. Stat. § 13.072](#), subd. 2)

A commissioner's opinion under this section does not bind the entity whose data are the subject of the opinion, but must be given deference by a court in a proceeding involving the data. ([Minn. Stat. § 13.072](#), subd. 2)

A written attorney general opinion takes precedence over a commissioner's opinion issued under this section. ([Minn. Stat. § 13.072](#), subd. 1)

This section does not preclude a person from bringing another action under chapter 13 or other law in addition to, or instead of, getting an opinion under the act. ([Minn. Stat. § 13.072](#), subd. 2)

The section does not apply to a question about specified determinations made by the Commissioner of Health. ([Minn. Stat. § 13.072](#))

Public Information Policy Training Program The commissioner is authorized to establish a program to train state and local government officials and employees on government data practices laws and records management statutes. ([Minn. Stat. § 13.073](#))

Responsible Authority Duties

Besides the statewide responsibilities imposed on the Commissioner of Administration, the act requires each covered government entity to designate an individual to perform various duties regarding the agency's records. This individual is the "responsible authority" for the government entity.

Responsible Authority The responsible authority is the individual in a state agency or statewide system who is made responsible for the entity's data by law or by the Commissioner of Administration. In a political subdivision, the responsible authority is the individual designated to be responsible for data by the local governing body. ([Minn. Stat. § 13.02](#), subd. 16)

Data Description; Procedures Each responsible authority must prepare (1) a public document that describes every kind of private or confidential data the agency has, and (2) a document on the rights of data subjects and the procedures for data access by the subject of the data. The authority must develop procedures to assure that data on individuals are accurate, complete, current, and secure. ([Minn. Stat. § 13.05](#), subds. 1, 5, and 8)

Permitted Data Data on individuals must be collected and stored only as needed to administer programs authorized by law. ([Minn. Stat. § 13.05](#), subd. 3)

Permitted Data Purposes Data on an individual must be used only for the purpose stated to the individual when the data was collected, unless:

- a law enacted or a rule issued after collection of the data authorizes a different use;
- the commissioner specifically approves a different use necessary to carry out a function provided by law; or
- the data subject gives informed consent as determined by the commissioner's rules. ([Minn. Stat. § 13.05](#), subd. 4)

Data Practices Compliance Official

Duties Each government entity must appoint a data practices compliance official. The responsible authority may fill this role. The public may direct to this individual questions and concerns about data access or other data problems. ([Minn. Stat. § 13.05](#), subd. 13)

Access to Government Data

The act guarantees anyone the right to see and copy data classified as public. It requires an explanation if access is denied on grounds that data are not public. Further, it regulates data sharing by government agencies.

No Identification or Justification Required Unless authorized by statute, a government entity may not require an individual to identify herself or himself or to explain why public data are being requested (except for the sole purpose of facilitating data access). ([Minn. Stat. § 13.05](#), subd. 12)

Convenient Use Records containing government data must be kept in an arrangement that makes them conveniently accessible. ([Minn. Stat. § 13.03](#), subd. 1)

Inspection; Fee Upon request, a person may inspect public government data at a reasonable time and place for no charge. Inspection includes (1) having a copy printed if printing a copy is the only way to provide inspection of data, and (2) being able to view and download or print government data stored in electronic form and made available to the public on a remote access basis. ([Minn. Stat. § 13.03](#), subd. 3)

A government entity may charge for remote access to data if: (1) it has specific statutory authority, or (2) it enhances the data or the access at the request of the person seeking the data. ([Minn. Stat. § 13.03](#), subd. 3)

Copying; Fees A person who requests a copy of public data or electronic transmittal of data may be required to pay the actual costs respectively of (1) searching for, retrieving, copying, and certifying the copies, or (2) electronically transmitting the data. An additional charge for development costs may be imposed if the requested material has commercial value (such as a database). Further, a person who requests private data about an individual, with the individual's consent, may be required to pay actual costs of making, certifying, and compiling the copies. An agency may not charge for separating public from not

public data. ([Minn. Stat. § 13.03](#), subd. 3)

Data maintained on computer must be provided in electronic form if that can be reasonably done. Information does not have to be provided in an electronic format or program different from that in which the government entity maintains the data. ([Minn. Stat. §§ 13.03](#), subd. 3; [13.05](#), subd. 4, para (d))

Summary Data

Unless a specific law provides otherwise, upon request, a responsible authority must prepare a statistical record or report which is available to the public and is known as summary data. Summary data are prepared by eliminating all identifying features from confidential or private data. The requesting person must pay the cost of making the summary. A person outside the agency may be allowed to prepare the summary, if that would not compromise the security of the data. ([Minn. Stat. § 13.05](#), subd. 7)

Denial of Access

If a responsible authority determines that requested data are not public, it must so notify the individual requesting the data and cite the applicable statute or temporary classification. ([Minn. Stat. § 13.03](#), subd. 3)

Intergovernmental Data Access

Government entities may share data that are not public with each other only if provided by law. The requesting entity may be required to pay the sending entity's actual cost of supplying the data. ([Minn. Stat. § 13.05](#), subd. 9)

Discoverability of Not Public Data

In a lawsuit, arbitration, or administrative action, parties may seek discovery of government data or have a court order for release of data. The responsible authority will refuse to comply if the data are classified as not public. The party seeking release may then bring an action to compel discovery. The presiding officer will decide (1) whether the data are discoverable under applicable rules of evidence or procedure, and (2) if so, whether the benefit of access outweighs the harm to confidentiality interests of the agency holding the data, the person providing the data, or the privacy of an individual identified in the data. ([Minn. Stat. § 13.03](#), subd. 6)

Data Subjects' Rights

Individuals about whom the government has data have the following rights:

- to know why requested data is being collected
- to know whether the government has data about them
- to contest the accuracy and completeness of data about them

**Data Subject
Warning**

An individual asked to supply private or confidential data about himself or herself (other than to law enforcement officers in an investigation) must be told the intended use of the data, whether the individual is legally required to provide the data, any known consequences of giving or withholding the data, and which other agencies or persons are authorized by law to receive the data. ([Minn. Stat. § 13.04](#), subd. 2)

**Subject's Access to
Data**

Upon request, an individual must be told whether an agency has data about the individual and how the data are classified. The individual has a right to see (without charge) and copy (for a fee) public or private data about herself or himself immediately if possible or otherwise within ten business days. The right to access may be exercised every six months, or more often if more data are added or the individual is in a dispute with the agency. ([Minn. Stat. § 13.04](#), subd. 3)

Data Corrections

An individual may contest the accuracy or completeness of public or private data on the individual. The individual must describe in writing the nature of his or her objections. Within 30 days the responsible authority must (1) correct or complete the data and notify past recipients of any error in the data, or (2) notify the subject that the authority believes the data are correct.

The subject may appeal under the Administrative Procedures Act.

Data successfully challenged must be completed, corrected, or destroyed. The authority may keep a copy of any order issued in the dispute or a summary of the dispute that does not contain any details of the challenged data. ([Minn. Stat. § 13.04](#), subd. 4)

Computer Access Data

Notice and Use

A government entity that tracks users' access to government computers for purposes of obtaining or transferring information or to use government services must inform users if it collects or keeps such information or installs cookies on users' computers. The notice must be provided before a person is asked to give identifying data to the government entity. The government entity must notify persons who access its computers how the data about their access will be used. In particular, users must be notified that the data will be used to evaluate electronic government services, to prevent unlawful intrusion into government electronic systems, or for any other purpose provided by law.

A person who refuses to accept a cookie must still be allowed to access or transfer information or obtain government services by the government entity's computer. ([Minn. Stat. § 13.15](#))

Notice of Breach of Security of State Agency Data

Notice Provisions A state agency that discovers a breach in the security of private or confidential data it holds must notify affected individuals by first class mail or e-mail as provided by the statute. If a breach requires notice to more than 1,000 individuals, the agency must also notify all consumer credit reporting agencies. Notice must be provided promptly unless a law enforcement agency determines it would impede a criminal investigation. ([Minn. Stat. § 13.055](#))

Civil Remedies

The act provides recourse for (1) someone harmed by a violation of it, or (2) anyone merely seeking to require a government agency to follow it.

Damages An individual or the representative of a decedent damaged by a government agency's violation of the act may recover damages, costs, and attorney fees. For a willful violation, exemplary damages of \$100 to \$10,000 per violation may be imposed. ([Minn. Stat. § 13.08](#), subd. 1)

Inspection The district court may issue an injunction ordering a government agency not to violate the act. ([Minn. Stat. § 13.08](#), subd. 2)

Action for Compliance The act allows a special action for compliance in which an aggrieved person seeking access to data or enforcement of other rights under chapter 13 may recover costs and attorney fees. The court may also impose a civil penalty against the government entity of up to \$300, to be paid to the state general fund. The court must consider whether the government entity has substantially complied with chapter 13. If the court finds the action frivolous, it may award costs and attorney fees to the government party. ([Minn. Stat. § 13.08](#), subd. 4)

Immunity A person or government agency is immune from civil and criminal liability for releasing data that are not public, if the data are released pursuant to a court order. ([Minn. Stat. § 13.08](#), subd. 5)

Criminal and Employment Penalties

In addition to civil remedies, the act contains a criminal penalty and a personnel sanction.

Willful violation of the act or accompanying rules is a misdemeanor. ([Minn. Stat. § 13.09](#))

Willful violation of the act by a public employee is just cause for suspension without pay or dismissal. ([Minn. Stat. § 13.09](#))

Specific Data Classifications

The act contains specific classifications for numerous kinds of data. In addition, access to many other kinds of data is covered by statutes other than the Government Data Practices Act. These statutes are cross-referenced in various provisions in [chapter 13](#).

For more information about government data, visit the privacy area of our web site, www.house.mn/hrd/issinfo/privacy.htm.