

1205.0200 DEFINITIONS.

Subpart 1. **Scope.** All terms shall have the meanings given them by Minnesota Statutes, section 13.02. Those terms and additional terms as used in this chapter shall have the meanings as follows.

Subp. 2. **Act.** "Act" means Minnesota Statutes, chapter 13, as amended, officially entitled the "Minnesota Government Data Practices Act."

Subp. 3. **Confidential data.** "Confidential data," as defined in Minnesota Statutes, section 13.02, subdivision 3 shall only include data which is expressly classified as confidential by either a state statute, including the provisions of Minnesota Statutes, section 13.06, or federal law.

Data is confidential only if a state statute or federal law provides substantially that certain data shall not be available either to the public or to the data subject; or certain data shall not be available to anyone for any reason except agencies which need the data for agency purposes. Certain data shall be confidential if a state statute or federal law provides that the data may be shown to the data subject only at the discretion of the person holding the data, and if such state statute or federal law provides standards which limit the exercise of the discretion of the person maintaining the data.

Data is not confidential if a state statute or federal law provides that the data is confidential, but the context of the statute or federal law, in which the term confidential appears, reasonably indicates the data is accessible by the data subject, or if the data subject is given access to the data only upon the discretion of the person holding the data and the state statute or federal law does not provide any standards which limit the exercise of such discretion. In such cases, the proper classification of the data is private.

A state agency rule, an executive order, an administrative decision, or a local ordinance shall not classify data as "confidential" or use wording to make data inaccessible to the data subject unless there is a state statute or federal law as the basis for the classification.

Subp. 4. **Data.** "Data" means "data on individuals" as defined in Minnesota Statutes, section 13.02, subdivision 5, unless stated otherwise.

Data can be maintained in any form, including, but not limited to, paper records and files, microfilm, computer medium, or other processes.

The duration of the existence of data, including whether certain data is temporary rather than permanent, is not relevant to compliance with this chapter.

All data, in whatever form it is maintained, is "data on individuals" if it can in any way identify any particular individual.

Code numbers, which are used to represent particular individuals, constitute "data on individuals" if a list or index of any type is available by which the code number can be cross

referenced to a name or other unique personal identifier so that any individual's identity is revealed. Code numbers, lists of code numbers, or data associated with code numbers may qualify for treatment as summary data, pursuant to part 1205.0700.

"Code number" means the labeling or enumeration of data by use of a letter, number, or combination thereof, which is used in place of an individual's name, including but not limited to index numbers, dummy numbers, SOUNDEX codes, and Social Security numbers.

Data is "data on individuals" if it identifies an individual in itself, or if it can be used in connection with other data elements to uniquely identify an individual. Such data shall include, but is not limited to, street addresses, job titles, and so forth where the particular data could only describe or identify one individual.

Subp. 5. **Designee.** "Designee" shall have the meaning given that term by Minnesota Statutes, section 13.02, subdivision 6.

Subp. 6. **Entity.** "Entity" means any governmental agency subject to the requirements of the act, including state agencies, political subdivisions, and statewide systems as those terms are defined in Minnesota Statutes, section 13.02.

"State agency" shall include any entity which is given power of statewide effect by statute or executive order.

"Political subdivision" shall include those local government entities which are given powers of less than statewide effect by statute or executive order.

"Statewide systems" shall include, but are not limited to, record keeping and data-administering systems established by statute, federal law, administrative decision or agreement, or joint powers agreement. "Statewide systems" shall include, but are not limited to, the Criminal Justice Information System administered by the Bureau of Criminal Apprehension, the Statewide Accounting System, and the various welfare systems primarily administered by the Department of Human Services.

Subp. 7. **Federal law.** "Federal law" means United States Code, rules and regulations of federal agencies as published in the Code of Federal Regulations, and federal case law, including decisions of any court in the federal judicial system.

Subp. 8. **Individual.** "Individual" means any living human being. "Individual" shall not include any fictional entity or business such as a corporation, association, partnership, or sole proprietorship even in those instances where the name of such an entity or business includes the name of a natural person.

Subp. 9. **Private data.** "Private data," as defined in Minnesota Statutes, section 13.02, subdivision 12 shall only include data which is expressly classified by either a state statute, including the provisions of Minnesota Statutes, section 13.06, or federal law.

Data is private if a state statute or federal law provides substantially that:

A. Certain data shall not be available to the public but shall be available to the subject of that data.

B. Certain data shall not be available to anyone, except the data subject or the subject's designated representative such as an attorney.

C. Certain data shall be confidential and the person the data is about may view the data at reasonable times.

D. Certain data shall be confidential and may be shown to the data subject at the discretion of the person holding the data. Such data shall be private if the state statute or federal law does not provide standards which limit the exercise of the discretion of the person maintaining the data.

E. Certain data is confidential, but the context of the statute or federal law in which the term confidential appears reasonably indicates the data is accessible by the individual who is the subject of the data.

Data is not private if a federal agency rule provides substantially that as a part of its plan for implementation of a certain federal program, a state agency, statewide system, or political subdivision must provide for the confidentiality of data obtained from program subjects.

A state agency rule, an executive order, an administrative decision, or a local ordinance shall not classify data as "private" or use wording to make data inaccessible to the public unless there is a state statute or federal law as the basis for the classification.

Subp. 10. **Public data.** "Public data" shall mean "data on individuals," not classified by state statute, including Minnesota Statutes, section 13.06, or federal law as private or confidential data. This subpart shall not limit the ability of an entity to apply for temporary classifications of data pursuant to Minnesota Statutes, section 13.06.

Subp. 11. **Records Management Act.** "Records Management Act" means Minnesota Statutes, section 138.17.

Subp. 12. **Responsible authority.** "Responsible authority" means the individual in each entity who is designated or appointed pursuant to Minnesota Statutes, section 13.02, subdivision 16.

Subp. 13. **Responsible authority in state agencies.** In state agencies, the responsible authority shall be as follows, unless otherwise provided by state law: for departments, the commissioner of the department; for constitutional offices, the constitutional officer; for the University of Minnesota, the individual appointed by the Board of Regents; for all other state agencies, the chief executive officer, or if none, then an individual chosen by the agency's governing body.

Subp. 14. **Responsible authority in political subdivisions.** In political subdivisions, the responsible authority shall be as follows, unless otherwise provided by state law:

A. For counties, each elected official of the county shall be the responsible authority for the official's office. An individual who is an employee of the county shall be appointed by the county board to be the responsible authority for any data administered outside the offices of elected officials.

B. For cities, the city council shall appoint an individual who is an employee of the city.

C. For school districts, the school board shall appoint an individual who is an employee of the school district.

D. For nonprofit corporations or nonprofit social service agencies, unless a statute or the governmental entity which created the corporation or agency appoints an individual, the governing body of the corporation or agency shall appoint an individual. If no appointment is made, the chief executive officer of the nonprofit corporation or agency shall be the responsible authority. If the corporation or agency is part of a statewide system, the responsible authority for the statewide system shall be the responsible authority for the corporation or agency as determined by this part.

E. For all other political subdivisions, the governing body shall appoint an individual who is an employee of the political subdivision.

Subp. 15. **Responsible authority in statewide systems.** In "statewide systems," the responsible authority shall be as follows, unless otherwise provided by state law:

A. the commissioner of any state department or any executive officer designated by statute or executive order as responsible for such a system; or

B. if a state statute or executive order does not designate an individual as responsible authority, the commissioner of administration shall appoint the responsible authority after the entities which participate in the system jointly apply for such an appointment in a form provided by the commissioner of administration.

Subp. 16. **Summary data.** "Summary data," as defined in Minnesota Statutes, section 13.02, subdivision 19, means data which has been extracted, manipulated, or summarized from private or confidential data, and from which all data elements that could link the data to a specific individual have been removed. "Summary data" includes, but is not limited to, statistical data, case studies, reports of incidents, and research reports. Once it is summarized from private or confidential data, summary data remains summary if the responsible authority maintains any list of numbers or other data which could uniquely identify any individual in the summary data physically separated from the summary data and the responsible authority does not make such list or other data available to persons who gain access to, or possession of the summary data.

Statutory Authority: *MS s 13.07*

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