



Nonprofit Privacy Policies

Nonprofits and charitable organizations often ask about data privacy. They wonder whether their organizations' data constitutes a public record and if their organizations are subject to the Minnesota Data Practices Act. The answer? It depends. There is no simple, one-size-fits-all solution to privacy policies. "All **government** data collected, created, received, maintained or disseminated by a government entity shall be public unless classified by statute ... as nonpublic or protected nonpublic, or with respect to data on individuals, as private or confidential." Minn. Stat. § 13.03, Subd. 1. While it's true that nonprofits and charitable organizations are not government entities, many nonprofits and charitable entities *receive* money in the form of grants other disbursements from the government. And, other nonprofit social service agencies and charitable organizations contract with the government to *perform functions* ordinarily executed by government agencies. See Minn. Stat. § 13.599, and http://sunshinereview.org/index.php/Minnesota_Data_Practices_Act. These two scenarios will subject a nonprofit or charitable organization to the Minnesota Data Practices Act, and the public will be permitted to inspect and copy what is deemed to be public record at "reasonable times and places, and, upon request, shall be informed of the data's meaning." Minn. Stat. § 13.03, Subd. 3.

Nonprofits and charitable organizations that do not receive government grant dollars and do not contract with the government to perform functions ordinarily executed by government agencies *will not* be subject to the Minnesota Data Practices Act. However, pursuant to Minn. Stat. § 317A.461, nonprofits and charitable organizations must keep their Articles of Incorporation, Bylaws, accounting records, voting agreements, meeting minutes, and other documents and data at their registered office, and allow all Members, Officers, Directors, and agents/attorneys of Members, Officers, and Directors to inspect all documents and data for any proper purpose at any reasonable time.

Additionally, most nonprofits and charitable organizations are required to share data with the public when they make required data filings with state and federal government agencies. In general, nonprofits must register with the Minnesota Attorney General's Office pursuant to Minn. Stat. §§ 309.52 and 309.53 when they receive or expect to receive charitable contributions in excess of \$25,000 from Minnesota residents. Moreover, charities that do not solicit but hold \$25,000 or more in charitable assets in Minnesota must register as a Charitable Trust unless otherwise exempt. See Minn. Stat § 501B.36. Also see <http://www.ag.state.mn.us/Charity/InfoCharitableorgandTrusts.asp>. These filings with the Minnesota Attorney General's Office are public record. Similarly, annual Form 990 filings with the IRS are also public record.