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Statement of Position Records Management for Volunteer Firefighter Relief Associations

All government entities, including volunteer fire relief associations, create and possess records. Records collected, created, received, maintained, or disseminated by a volunteer fire relief association regardless of their physical form are “government data.”¹ As governmental entities that receive and manage public money, relief associations are subject to Minnesota Statutes, section 138.17. Pursuant to section 138.17, records cannot be destroyed except at the direction of the Records Disposition Panel.²

A volunteer fire relief association will have in its possession at least the following categories of government records: 1) financial and investment; 2) personnel; and 3) records establishing and governing the relief association. This Statement provides guidance for volunteer fire relief associations on issues of records maintenance, public accessibility, and retention.

Records Retention

Relief association records should not be destroyed except in accordance with a properly adopted records retention schedule. Unless and until their destruction is allowed by a records retention schedule adopted by the relief association or permission has been obtained from the Records Disposition Panel, the records must be preserved. The Minnesota law that prohibits destruction of records also requires relief associations to take such steps as are necessary to protect their records from deterioration, mutilation, loss, or destruction.

If a relief association has not adopted a records retention schedule approved by the Records Disposition Panel and has not received permission from the Records Disposition Panel to destroy certain records, documents should be retained indefinitely.³

¹ Minn. Stat. § 13.02, subd. 7.

² More information on record retention schedules and requests to destroy records can be obtained on the Minnesota Archives website: www.mnhs.org/preserve/records/retentionsched.html.

³ See the Office of the State Auditor’s Statement of Position entitled “Retention of Records for Volunteer Firefighter Relief Associations” at: <http://www.auditor.state.mn.us/default.aspx?page=20120928.000>.

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This Statement of Position is not legal advice and is subject to revision.

Types of Relief Association Records

Financial and Investment Records

Volunteer fire relief associations have authority to maintain two types of funds: a Special Fund and a General Fund. If licensed to conduct charitable gambling, volunteer fire relief associations also may maintain a gambling fund.

Minnesota law requires the relief association treasurer “to maintain adequate records documenting any transaction involving the assets or the revenues” of the Special Fund and of the General Fund, if one exists.⁴

The Special Fund of a relief association is a trust fund to be used to pay pensions. It contains public money: fire state aid and municipal contributions. The Legislature has determined that records documenting Special Fund transactions are public records and they must be accessible to the public.⁵

In contrast, the records documenting General Fund transactions do not need to be accessible to the public, only to the members. They need only be “open for inspection by any member of the relief association at reasonable times and places.”⁶ However, audits, financial statements and reports containing information obtained from the records of the General Fund and submitted to the Office of the State Auditor (OSA) are public, even though the records themselves are not public.⁷

Minnesota law also regulates records related to charitable gambling funds. The Gambling Control Board regulates lawful gambling in Minnesota.⁸ Relief associations should consult with their legal counsel and with the Gambling Control Board concerning charitable gambling records management.

Personnel Records

Membership files in the possession of relief associations likely contain personnel information on individual firefighters. These records may be critical for such things as determining benefits, but often contain private, not public information such as social security numbers, dates of birth, and medical and disability records. Personnel data is private data unless the law provides a different classification for it.⁹ Documents

⁴ Minn. Stat. §§ 424A.05, subd. 2, and 424A.06, subd. 2.

⁵ These records “are public and must be open for inspection by any member of the relief association, any officer or employee of the state or of the municipality, or any member of the public, at reasonable times and places.” Minn. Stat. § 424A.05, subd. 2.

⁶ Minn. Stat. § 424A.06, subd. 2; *see also* Minn. Dept. of Admin., Advisory Ops. 97-037.

⁷ *See* Minn. Stat. § 69.051, subs. 1, 1a (identifying records to be submitted to OSA, all of which are public).

⁸ Minn. Stat. § 349.151, subd. 4.

⁹ Minn. Stat. § 13.43, subs. 2, 4.

containing personnel data should be retained in a secure manner. How personnel records are to be handled is addressed in the Minnesota Data Practices Act.¹⁰

The Information Policy Analysis Division (IPAD) of the Minnesota Department of Administration oversees data practices issues, and the application of the Data Practices Act.¹¹ For questions on records maintenance, public access, and public data, you can contact IPAD by calling 651-296-6733 or 1-800-657-372, or by email at info.ipad@state.mn.us. Their web address is www.ipad.state.mn.us.

Records Establishing and Governing Relief Associations

A volunteer fire relief association will have in its possession documents establishing, or related to the establishment and governance of, the relief association. These documents may include articles of incorporation, bylaws and bylaw amendments, various financial and actuarial records, meeting minutes, planning reports and member rosters. Documents related to the establishment and governance of the relief association should be retained indefinitely for both practical and historical reasons, and to comply with records retention requirements.¹²

Records Management

It is the responsibility of the relief association board of trustees to determine where and how records will be maintained. The OSA recommends that relief association records be maintained in a secure public place, when possible, and not in a private home. Keeping records in a private residence may present security risks for the records. The security risks include both risks to the records themselves and risks related to disclosure of “not public” information contained in the records. In addition, maintaining documents in a public place may provide more convenient general access to public records.

We recognize that many relief associations do not have access to a public place in which records may be securely stored. As a result, some make other arrangements for providing public access to the records, such as allowing documents to be viewed at board meetings or at times mutually convenient to the parties. The board of trustees should consider the options available to them, taking into account the competing concerns of security and public accessibility. Care must be taken to identify not public data and to keep not public data not public.

When a change in leadership of a relief association occurs, the records should be delivered promptly to the successors. If records that should be accessible to the public have been lost or destroyed, the relief association may have an obligation to retrieve

¹⁰ The State Legislature determined that volunteer fire relief associations are governmental entities that receive and manage public money. As such, relief associations are subject to the Data Practices Act. Minn. Stat. § 13.02, subd. 7; Minn. Stat. § 424A.001, subd. 4; Minn. Dept. of Admin., Advisory Ops. 94-043 and 97-037. Data consists of records in any form, including paper and electronic records.

¹¹ Minn. Stat. § 13.072.

¹² See the Office of the State Auditor’s Statement of Position entitled “Retention of Records for Volunteer Firefighter Relief Associations” at: <http://www.auditor.state.mn.us/default.aspx?page=20120928.000>.

those records from another source, such as a computer hard drive or a bank, if the records are retrievable.¹³

Form of Records

The Data Practices Act applies to records maintained in any form, including electronic records.¹⁴ Most documents created on a computer are never reduced to paper. Electronic documents must generally be retained for the same length of time as paper documents. The computer records should be password protected to ensure that nonpublic records remain nonpublic. In addition, computer records should be backed up regularly.

Software needs to be updated regularly, and older software (and hardware) will be discarded. However, without compatible software, many documents cannot be read. The OSA recommends that software needed to read computer records be maintained with the records.

¹³ Minn. Dept. of Admin., Advisory Op. 95-016.

¹⁴ Minn. Stat. § 13.02, subd. 7.