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To: Compensation Council

From: Nick Nigro, LCC Research Analyst

RE: Minnesota Government Data Practices Act and Open Meeting Law

Memorandum

Council members should assume all communication about their work here is public.

The Compensation Council must comply with the Minnesota Government Data Practices Act (DPA). The DPA makes classifications for what data is public or not.¹ The public has the right to public data and can request it, this acts as Minnesota's version of the Freedom of Information Act (FOIA).² Data consists of everything "collected, created, received, maintained, or disseminated [...] regardless of its physical form, storage media or conditions of use."³ The DPA also requires that records be preserved.⁴ Because the Compensation Council falls under the jurisdiction of the DPA, communications between members of the Council and with staff is public data. The LCC staff will work to retain the Council's records and will help with any records requests from the public. Members should be aware that messages communicated via email or text be made public.

In addition, information such as your name and some other information provided through the Secretary of State's website when you applied to serve on the Council are considered public information. The LCC will notify you if we receive a request for data relating to you.

¹ Minn. Stat. §13.01, subd. 3.

² Minn. Stat. §13.03.

³ Minn. Stat. §13.02, subd. 7.

⁴ Minn. Stat. §13.03.

Council members should be careful about communicating with each other outside of meetings.

Meetings of the Compensation Council are also subject to Minnesota’s Open Meeting Law, Chapter 13D. Minnesota’s Open Meeting Law has three established purposes:

1. “To prohibit actions being taken at a secret meeting where it is impossible for the interested public to become fully informed concerning [public bodies’] decisions or to detect improper influences;
2. To assure the public’s right to be informed; and
3. To afford the public an opportunity to present its views to the [public body]”⁵

The Minnesota Supreme Court defined meetings as any gathering of a quorum of members including discussions and not just meetings where official business is decided.⁶ A meeting is considered open when proper notice was given in advance, the public can attend, and meeting materials are available.⁷ Notice may be given via multiple mediums but generally needs to be given 24 hours before the meeting.⁸ The law does allow remote meetings via interactive technology.⁹ The law also does create an exception for public discussions on social media, but email is singled out as not being considered a type of social media.¹⁰

Members should take care to avoid discussions of the work of the Council online or outside these meetings with groups of members. An email chain could run afoul of this law. Conversely, members meeting up at a non-Council related event, and not as a group making decisions about the work of the Council would not violate the Open Meeting Law.

There are specific requirements when using interactive technology or phones.

- All members must be able to hear one another and all discussion / testimony.
- The public must be able to hear discussions and votes.
- One member must be physically present at the Capitol Complex.
- Votes must be conducted by roll call.¹¹

⁵ *Prior Lake American v. Mader*, 642 N.W.2d 729, 735 (Minn. 2002) (en banc).

⁶ *Moberg v. Independent School Dist. No. 281*, 336 N.W.2d 510 (Minn. 1983) (en banc).; *St. Cloud Newspapers, Inc. v. District 742 Community Schools*, 332 N.W.2d 1, 4 (Minn. 1983).

⁷ Minn. Stat. § 13D.01, 13D.04.

⁸ Minn. Stat. § 13D.04.

⁹ Minn. Stat. § 13D.02.

¹⁰ Minn. Stat. § 13D.065.

¹¹ Minn. Stat. § 13D.015.