

### Minnesota Government Data Practices Act – Determining When an Applicant Becomes a Finalist in Leadership Recruitment Process

The recruitment and selection process for a County department head is a significant opportunity for the County to build a highly qualified, knowledgeable, and effective leadership team – a team positioned to strengthen positively advance the community in which they work. This process may also attract the attention of residents interested in the future of their local government organization, leading to media interest and various data requests under the Minnesota Government Data Practices Act. The County will need to consider when and how to appropriately share public data throughout this process. In this article, we'll examine a specific segment of the recruitment and selection process and discuss how to determine when a candidate's name becomes public.

When screening to fill a department head role, many Counties assemble an interview panel or search committee to conduct initial interviews and narrow the field of qualified applicants. The initial interview panel in turn refers a candidate or candidates to the County Board (or County Administrator) for interview and final selection. We know that an applicant's name becomes public when they are considered a finalist by the appointing authority. So what happens if the initial interview panel refers a candidate, but the Board does not proceed with interviewing that candidate (or the candidate drops out prior to interviewing with the Board)? At what point is the candidate considered a finalist in this scenario, and when does their name become public?

[Minnesota Statutes Section 13.43](#) discusses personnel data, and Subdivision 3 covers applicant data. This section tells us that “... **(n)ames** of applicants shall be private data except when certified as eligible for appointment to a vacancy or when applicants are considered by the appointing authority to be finalists for a position in public employment. For purposes of this subdivision, "finalist" means an individual who is selected to be interviewed by the appointing authority prior to selection.”

In the scenario under consideration, the County Board is the "appointing authority" since they are the ones who make the hiring decision and appointment of a new department head. If the County Board does not interview the person the panel referred to the Board, then there is no “finalist” in this scenario. The County should not share candidate names until the County Board moves forward with interviews, or identifies an individual is a finalist eligible for appointment to the vacancy. This doesn't mean that all information about the applicants is private however.

Keep in mind that certain information about applicants remains public all along. Minnesota Statutes Section 13.43, Subd. 3 states the following personnel data on current and former applicants for employment by a government entity is public:

- veteran status;
- relevant test scores;
- rank on eligible list;
- job history;
- education and training; and
- work availability.

A MN Department of Administration, Data Practices Advisory Opinion which can be found [here](#),

discusses a similar issue where an interview team of employees reviewed applications and selected applicants to be interviewed by the panel, and made recommendations to the School Board. Those names remained private, but the "names of any applicants the School Board chooses to interview are public."

In conclusion, look at whether the County Board interviews any of the referred applicants, thereby changing the person's status from "applicant" to "finalist," which in turn changes the data classification of the person's name to public.