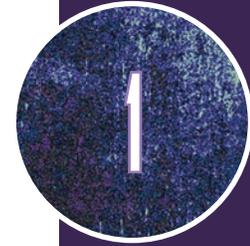


GOVERNANCE

Governance is one of the building blocks of a successful organization. Often governance is framed with applicable state and federal laws. Agricultural societies should address questions about complying with applicable statutes to their legal counsel.



GOVERNANCE





Minnesota Statutes, Chapter 38 authorizes the creation of county agricultural societies, and sets forth their powers and governance responsibilities. Chapter 38 also establishes funding mechanisms and certain obligations for receiving this funding. Additionally, agricultural societies have traditionally formed as nonprofit corporations under the Minnesota Nonprofit Corporation Act, Minnesota Statutes, Chapter 317A, which also contains governance requirements.

Agricultural societies should familiarize themselves with the governance and operational requirements of both chapters 38 and 317A in order to maintain compliance with the laws.

Agricultural societies should also be aware that the Minnesota Government Data Practices Act (MGDPA) and Minnesota Open Meeting Law may apply to their operations. The MGDPA governs the storage, classification and dissemination of government data for most public entities. The Open Meeting Law sets forth the conditions under which the governing boards of public bodies must conduct their meetings.

The Minnesota Department of Administration, as the state agency with the authority to issue advisory opinions on the MGDPA and the Open Meeting Law, has issued three opinions stating that agricultural societies are subject to these laws. In opinions 10-004 and 19-007, the Department of Administration concluded that agricultural societies met the definition of political subdivision in Minnesota Statute, Section 13.02, Subdivision. 11 of the MGDPA as “any board, commission, district or authority created pursuant to law, local ordinance, or charter provision.”

In Opinion 11-012, the department found that an agricultural society met the definition of “other public body” under the Open Meeting Law. In reaching this conclusion, the department relied on the fact that the agricultural society was linked to having a public purpose or connection, received public monies, had eminent domain power, and a county may levy taxes specific for the agricultural society.

Although opinions issued by the department are not legally binding, these opinions must be given deference

by a court or other tribunal in a proceeding involving the data. In most cases, the opinions are intended to provide guidance to all similarly situated persons or entities. An entity that acts in conformity with a written opinion is provided some protection under the MGDPA and the Open Meeting Law.

Minnesota Government Data Practices Act (MGDPA)

The MGDPA governs the storage, classification and dissemination of government data. “Government data” is all data collected, created, received, maintained or disseminated by any public entity regardless of its physical form, storage media or conditions of use.

Failure to comply with the Act may result in civil damages, or civil or criminal penalties.

The MGDPA establishes a presumption that government data are publicly accessible, unless access is prohibited either by law or by a temporary data classification. The Act largely determines whether an entity must, upon request of various parties, release certain types of data.

Under the MGDPA some data are classified as not public (both on individuals and not on individuals). Among other data, not public data includes most personnel data for employees and volunteers, workers’ compensation data, security information, trade secrets and attorney-client privilege.

The MGDPA governs how this information must be stored and who may have access to it. For example, data classified as private data can typically be accessed by the data subject and those who work for the public entity whose job reasonably requires access. It also requires certain notices be provided prior to collecting private data on individuals.

The MGDPA requires that the entity’s responsible authority (person whose duties are day-to-day administration of MGDPA) implement appropriate security safeguards for all data on individuals.

Open Meeting Law (OML)

When members of a public body come together to conduct business, citizens are generally entitled to observe and be informed about the issues and actions of their representatives. The Minnesota Open



Meeting Law:

- Prohibits taking action at secret meetings where it is impossible for the public to become fully informed about a public body's decisions or to detect improper influences.
- Assures the public's right to be informed.
- Affords the public an opportunity to present its views to the public body.

Agricultural societies should be aware that the OML requirements for meetings, meeting notices and board actions may be different than the nonprofit law requirements.

Failure to comply with the OML can result in fines for the offending individuals. Fines imposed by the court are the responsibility of the individual fined. The public body cannot legally indemnify the board member for these penalties.

If the board member has been found to have intentionally violated the law three or more separate and unrelated times, he or she may be removed from office. The court may also order the board member to pay costs and attorney fees to the claimant.

Resources



The following articles provide additional information and are available at MCIT.org/resource:

- "Minnesota Government Data Practices Act: An Introduction"
- "Minnesota Open Meeting Law"
- "Open Meeting Law and Lunch"