



## STATE OF MINNESOTA OFFICE OF THE STATE AUDITOR

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### Statement of Position Management of Records for Fire Relief Associations

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

All government entities, including fire relief associations, create and possess records (electronic and paper). Records collected, created, received, maintained, or disseminated by a relief association regardless of their physical form are “government data.”<sup>1</sup> As governmental entities that receive and manage public money, relief associations are subject to Minnesota Statutes, section 138.17, which states that records cannot be destroyed except at the direction of the state’s Records Disposition Panel.<sup>2</sup>

A 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. Records may be in various formats: paper, email, computer file, etc. This Statement provides guidance for relief associations on issues of records retention, records maintenance, and public accessibility.

#### Records Retention Schedule

A records retention schedule is a written list of types of records that an organization may have in its possession or control with instructions on how long each type of record must be retained. Because organizations that have similar activities and responsibilities oftentimes have similar types of records, a general records retention schedule may be developed for use by multiple organizations and approved by the Records Disposition Panel.

The State Auditor’s Fire Relief Association Working Group created a General Records Retention Schedule for fire relief associations that was submitted to the Records Disposition Panel. The Panel approved the general schedule in April 2012.

The general records retention schedule, instructions on how to use the schedule, and a form for notifying the Minnesota Historical Society that the schedule has been adopted can be found on the [Minnesota Historical Society website](#).

A relief association can choose to adopt the General Records Retention Schedule for fire relief associations. If a relief association adopts the schedule, the relief association should timely notify the

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<sup>1</sup> Minn. Stat. § 13.02, subd. 7.

<sup>2</sup> More information on record retention schedules and requests to destroy records can be obtained on the [Minnesota Archives website](#).

Minnesota Historical Society of the adoption. The relief association then may destroy certain types of records after they have been maintained for a specified length of time per the general schedule.

If a relief association chooses to modify the general records retention schedule or to create its own schedule, the relief association must submit the proposed schedule to the Records Disposition Panel for approval. If approved, the relief association then should formally adopt the approved, modified schedule and inform the Minnesota Historical Society of the adoption. After adoption of the schedule, the relief association may destroy certain types of records after they have been maintained for a specified length of time per the modified general schedule.

***If a relief association does not adopt either the general schedule or an approved, modified version of the schedule, then the relief association must permanently retain all of its records.***<sup>3</sup>

Record retention requirements are such that relief associations should take steps to protect their records from deterioration, mutilation, loss, or destruction. For example, computer records should be backed up regularly.

Finally, a record or log that lists all records that have been disposed of should be maintained by the relief association. The log should identify the record, the category governing its retention, the date on which it was created, and the date on which it was destroyed.

## Managing Different Types of Relief Association Records

Different types of relief association records may have different requirements regarding who can have access to them and the way in which they must be kept. Below are guidelines for the more common categories of records.

### Financial and Investment Records

Relief associations have the authority to maintain two types of funds: a special fund and a general fund. If licensed to conduct charitable gambling, 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.<sup>4</sup>

The special fund of a relief association is a restricted fund to be used for the payment of retirement benefits. 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.*<sup>5</sup>

In contrast, the records documenting general fund transactions need only be “open for inspection by any member of the relief association at reasonable times and places.”<sup>6</sup>

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<sup>3</sup> Pursuant to section 138.17, records cannot be destroyed except at the direction of the Records Disposition Panel.

<sup>4</sup> Minn. Stat. §§ 424A.05, subd. 2, and 424A.06, subd. 2.

<sup>5</sup> 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.

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

Minnesota law also regulates records related to charitable gambling funds. The Gambling Control Board regulates lawful gambling in Minnesota.<sup>7</sup> 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.*<sup>8</sup> Documents containing personnel data should be retained in a secure manner. Any computer (electronic) records with private data should be password protected to ensure that not public records remain not public. How personnel records are to be handled is addressed in the Minnesota Data Practices Act.<sup>9</sup>

Software needs to be updated regularly. However, without compatible software, many documents cannot be read. The OSA recommends that software needed to read computer records be maintained with the records.

### Records Establishing and Governing Relief Associations

A 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 to comply with records retention requirements prescribed in the General Records Retention Schedule.

### Further Information

For any questions regarding records retention, please check with your legal counsel.

For questions on records maintenance, public access, and public data, please contact the [Data Practices Office](#) of the Minnesota Department of Administration, which oversees data practices issues, and the application of the Data Practices Act.<sup>10</sup>

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<sup>7</sup> Minn. Stat. § 349.151, subd. 4.

<sup>8</sup> Minn. Stat. § 13.43, subds. 2, 4.

<sup>9</sup> The State Legislature determined that 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.

<sup>10</sup> Minn. Stat. § 13.072.