

Information Policy of the Minnesota Historical Society

Adopted January 17, 2007

Revised January 20, 2011

Revised December 11, 2014

I. Scope and Purpose

The Minnesota Historical Society (MNHS) is a non-profit educational institution supported in part by public funds. It is not subject to the Minnesota Government Data Practices Act (Minnesota Statutes, Ch. 13). This Policy covers access to information that has been collected, created, stored, and maintained by MNHS. It establishes the presumption that information is available to the public unless there is a federal law, a state statute, an MNHS need, or a privacy concern that would restrict such access.

II. Definitions

Administrative records include MNHS records in any format that are created, collected, and maintained in the normal course of business. It broadly includes MNHS' internal records; however, it does not include MNHS' *collections* or *personnel records*, which are defined below.

Personnel records means records that are created, collected, and maintained for individuals who are or were employees, volunteers, interns, or similarly situated individuals (e.g., mentors and fellows). It includes records that exist primarily to document or administer their relationship to MNHS and generally includes such documents as application forms, performance evaluations, disciplinary actions, education and training records, and compensation records.

Private information means information that is not available to the public.

Records means information, data, and other documentary material in any format.

MNHS collections means material that MNHS has collected, created, purchased, or received as a donation or transfer with the intent of documenting, presenting, interpreting, and making available Minnesota history. Administrative and personnel records become a part of MNHS collections if and when they are transferred to MNHS Institutional Archives, which is part of the MNHS collections.

State Archives records means government records that are transferred to MNHS pursuant to Minnesota Statutes, Ch. 138.17 subd. 1.

III. Guidelines to Access

A. MNHS Collections

MNHS, as part of its mission, collects and cares for material that documents human life in Minnesota. MNHS is an educational organization that makes its information and collections known and accessible to people in Minnesota and beyond. MNHS' *Collections Management Policy* guides the acquisition, use, loan, preservation, deaccession, and disposal of these collections.

Access to the collections and/or the information contained in them may be restricted for the following reasons:

1. Copyrighted material

MNHS follows federal copyright law, which may limit reproduction of materials. MNHS' Library copy center must restrict copying of certain material if such duplication violates federal copyright law.

2. Donations

A donor may restrict access to collections as part of a negotiated agreement with MNHS. Such agreements may include no access for a specified period of time, limited access, or selected access. MNHS reserves the right to place a restriction on a collection even if no such restriction has been requested by the donor. Restrictions generally will be lifted after a certain period of time has passed. MNHS strives to keep the term of restrictions as short as possible.

3. Endangered material

MNHS reserves the right to restrict use of fragile or vulnerable materials if such use would endanger them. MNHS makes every effort to provide alternative formats, such as digital surrogates or other reproductions, for use if the original material is endangered. MNHS may also restrict the dissemination of information if such dissemination might jeopardize the security of historical resources.

4. Sensitive cultural collections

MNHS respects the special nature of funerary, sacred, and other highly sensitive cultural collections and may apply restrictions on the access and reproduction of these materials. Management of these collections is guided by the *Minnesota Historical Society Statement of NAGPRA and Cultural Sensitive Objects Policy*.

5. State Archives

MNHS follows Minnesota Statutes, Ch. 138.17 subd. 1(c) relating to access to State Archives government records collections. Records collected by the State Archives are public except as provided for by Minnesota Statutes, Ch. 138.17 subd. 1(c).

B. Administrative Records

MNHS is committed to providing substantial access to its administrative records. In most cases, information in records created, collected, and maintained by MNHS is available to the public. Certain exceptions apply, including:

1. Appraisal information

The estimated or appraised value of MNHS real estate property is private information. If such property is sold, the information becomes public upon the completion of the sale. The estimated or appraised value of items in the MNHS' collections is private information. If such items are deaccessioned and sold in accordance with MNHS' *Collections Management Policy*, the information becomes public upon the completion of the sale.

2. Confidential information

Certain trade secret, commercial, and proprietary information (e.g., information relating to exhibit design techniques, computer software development, and acquisition preparatory work) is deemed to be private information. Unless otherwise required by law, MNHS reserves the right to designate information as confidential in its sole discretion.

3. Donor and development information

The names of donors to MNHS, including those who donate collection items and those who make financial and in-kind donations, are public unless a donor requests anonymity. The gift range of a financial donation is public; the specific gift amount, form, payment schedule, and date of gift are private information unless approved by the donor.

Information about past, current, and prospective donors, including correspondence, research, solicitation, proposals, negotiation documents, responses, and similar development information is private information.

4. Meeting minutes

Draft minutes of meetings are private information. Meeting minutes are considered drafts until they have been approved by the appropriate body. Only approved final versions of meeting minutes are public, with the exception of all notes and minutes from MNHS Board-designated executive sessions, which are private. Meeting packet exhibits for all MNHS Board meetings and Board committee meetings, including the Executive Council, are public unless designated as private.

5. Reports

Notes and preliminary drafts of reports created, collected, and maintained during management studies, audits, reviews, consultations, or investigations are private. Only

approved final versions of reports created, collected, and maintained during management studies, audits, reviews, consultations, or investigations are public.

6. Notes, internal correspondence, and communications in any form

Notes, internal correspondence, and other communications in any form maintained by MNHS employees, volunteers, interns, and similarly situated individuals as part of their job-related duties, and which are not otherwise disclosed outside of MNHS, are private information. Correspondence with third parties is public unless there is an MNHS need or privacy concern which requires restricted access.

7. Financial information

Completed audits of MNHS' finances by the Legislative Auditor and private auditing firms are public.

Financial information is generally considered public unless release of certain information would be in violation of donor and other agreements, in which case such information is considered private. Any identifying, private personnel information contained in otherwise public financial information shall be redacted before such information is made available to the public.

Executed contracts are presumed to be public unless otherwise provided for by the terms of the contract. To the extent that a contract that is otherwise public contains information deemed to be private, such private information shall be redacted before the contract is made available to the public.

8. Research fellowships and other competitive programs

Information maintained for the administration of research fellowships and other competitive programs is generally considered public. To the extent that otherwise public information contains private information, such private information shall be redacted before the information is made available to the public.

Materials prepared as part of the decision-making process are private. MNHS may share private information pertaining to applications with individuals who are assisting with the decision-making process. These individuals may not further disseminate the private information they review.

9. Grant and state tax credit program information

Information used in MNHS' Historic Preservation Department's grant and state tax credit program is considered public in most cases. To the extent that otherwise public information contains private information, such private information shall be redacted before the information is made available to the public. Applications and grant agreements are private until they have been fully evaluated and formally acted upon as follows:

a. Applications. Upon MNHS receipt of an application, the name of the applicant, the project title, the historic resource affected, and the dollar amount requested is considered public. Applications are considered private until they are either approved or denied, as outlined in the operating procedures of the review committee or the review procedures of the program, as applicable.

MNHS may share private information pertaining to applications with individuals who are assisting in the evaluation and review process. These individuals may not further disseminate the private information they review. Once MNHS has formally acted upon an application, individual reviews are private; aggregate reviews are public with identifying information of the reviewers redacted.

MNHS may share private information pertaining to applications with individuals who contract with MNHS to prepare reports. These individuals may not further disseminate the private information they receive. The report may include aggregate data related to otherwise private information.

b. Grant agreements. Once a grant application has been approved for funding, the terms of the grant agreement are considered private until the agreement has been fully executed by all parties to the agreement. Fully executed grant agreements are considered public. To the extent that a grant agreement or related record that is otherwise public contains information deemed to be private, such private information shall be redacted before the grant agreement is made available to the public.

10. Federal and state historic preservation program information

Information generated and required to be on file as a result of MNHS implementing the provisions of the National Historic Preservation Act, as amended (16 USC 470 et seq), on behalf of the State of Minnesota is subject to applicable federal and state requirements. The National Park Service has the right to use and disclose program and project data in accordance with federal law. Information contained in federal and state historic preservation programs is considered public in most cases. To the extent otherwise public information contains private information, such private information shall be redacted before the information is made available to the public. Project is generally considered private until formally acted upon by MNHS staff.

11. Library information

Personal information received from Library users is private. MNHS protects the Library user's right to privacy with respect to information sought or received, and resources consulted. Call slips and other records connecting the name of Library users to the materials they request are private.

12. Security information

If disclosure of information might substantially jeopardize the security of collections, information, individuals, or property against theft, tempering, improper use, illegal disclosure, trespass, or physical injury, it will be treated as private information.

13. Location of sensitive historic resources

MNHS may redact information about the location, character, or ownership of historic resources if MNHS determines that the disclosure may cause a significant invasion of privacy, risk harm to the historic resource, or impede the use of a traditional religious site by practitioners. MNHS complies with the National Historic Preservation Act, as amended (16 USC 470 et seq), and will consult with the National Park Service on questions of withholding information about sensitive historic resources when appropriate.

14. Third party materials

With the exception of information contained in grant, state tax credit, and historic preservation programs as referenced above, records created and maintained by a third party and shared with MNHS in the course of an advisory or consultative relationship are only considered public with the permission of the third party and at the discretion of MNHS.

C. Personnel records

MNHS maintains a balance between public accountability and individual privacy interests. Requests for personnel information should be referred to the Human Resources, Volunteers & Interns Department. That department is guided by MNHS Board-approved policies that cover employees, volunteers, interns, and similarly situated individuals.

IV. Reservation of Rights

MNHS reserves the right, in unusual circumstances, to decide to release otherwise private information and to decide not to release otherwise public information. The following are examples, but not an exhaustive list, of such circumstances.

1. Compliance with law

MNHS will not release records or information if such release will violate state or federal law or a court order. When the issue of release of information is the subject of a filed or pending action for a court order prohibiting its release, no release shall occur until such action is resolved.

2. Court orders and subpoenas

MNHS may seek legal advice regarding compliance before acting upon any received court orders, subpoenas, or search warrants, but will comply with such orders, subpoenas, and warrants to the extent required by law.

3. Privacy rights

Access to records may be denied if such access might potentially and unreasonably violate a privacy or other significant interest of an individual or organization.

4. Privileged records

MNHS reserves the right to deny access to information that MNHS or its legal counsel determines is protected by the attorney-client privilege, work product doctrine, or other applicable privilege. MNHS does not intend that this Policy provide an alternative to civil discovery and expects adverse parties to obtain information in connection with disputed matters through the formal discovery process.

A. No contract rights established

This Policy is intended to facilitate public access to MNHS information. It is not intended to create a contractual right to information, or any other contractual rights, for the public or for MNHS employees, volunteers, interns, or similarly situated individuals. It is not intended to create employment rights or alter the employment relationship of MNHS employees.

B. Termination or amendment of policy

MNHS reserves the right to amend or terminate this Policy, as it deems appropriate, at any time in its sole discretion.

C. Conflicts in policy

To the extent any conflict arises in application of this Policy such that information sought could be construed as both public and private, the designation as private shall take precedence and the information accordingly shall not be released.

V. Access

MNHS will provide members of the public full accessibility to information held by MNHS as appropriate under this Policy. Information requests are made to the MNHS' program staff. To balance its programs and workload, MNHS will schedule the response to a request within the larger context of its responsibilities and routines.

The requester will be responsible for any costs incurred by MNHS in meeting the request, including the cost of duplication, as well as the cost of the employee time for activities such as locating, sorting, copying, and transmitting the information.

A. Approval

If the request is approved, requested information ordinarily will be provided in its original format. Such information will be supplied as soon as reasonably possible considering the scope of the request and MNHS' ongoing operations.

B. Denial

Should it be determined by MNHS that access to requested information is not permitted or should be limited, the requester will usually be notified within 60 calendar days. If the requester

disagrees with the decision, a formal request for access can be made within 30 calendar days in writing to the Director of MNHS. The Director will generally respond to the request within 30 days.

1. Denial of access to MNHS information

The Director's decision about the accessibility of information may be appealed to the MNHS' Executive Council. Such appeal must be in writing and submitted within 30 calendar days of the Director's decision. The Executive Council (or the Executive Committee acting on the Executive Council's behalf) will consider the appeal. Upon receipt of an appeal, the President of the Executive Council will determine the process for considering the appeal. Decisions of the Executive Council will generally be issued within 120 calendar days of receipt of a complete and timely written appeal. The decisions of the Executive Council are final.

2. Denial of access to information on sensitive historic resources

The Director's decision related to the accessibility of information on the location of historic resources (see Section II.B.13 of this Policy) is made in consultation with the National Park Service when appropriate and is final.

3. Denial of access to State Archives collections

Persons denied access to State Archives collections under Minnesota Statutes Ch. 138.17 subd. 1(c) may appeal the decision to the Executive Council within 30 calendar days of the denial notice being given. The Executive Council shall, within 30 calendar days of the filing of an appeal, issue a decision determining if the standards of the statute have been correctly applied. The decision of the Executive Council may be appealed to the District Court of Ramsey County.