

## Requirements for the Disposition/Transfer of Government Records to Repositories other than the Minnesota Historical Society

These requirements are used by the Records Disposition Panel and the Minnesota Historical Society/Minnesota State Archives regarding the disposition of government records to other repositories pursuant to Minnesota Statutes Chapter 138.17<sup>1</sup>, subd. 1; Minnesota Statutes Chapter 138.20<sup>2</sup>; and Minnesota Statutes Chapter 138.21<sup>3</sup>.

### I. Records designated as archival by the Records Disposition Panel

It is the intent of the panel that records designated as archival, or the reproduction of archival records that serve as substitutes for the original record, remain in the custody of the agency that created them or the successor agency (pursuant to Minnesota Statutes Chapter 15.17<sup>4</sup>, subd. 3) or that they be transferred to the Minnesota Historical Society.

In some cases, another institution may be a more appropriate repository for the preservation, storage, and use of certain series of records. In these instances, the Minnesota Historical Society may enter into an agreement with the repository specifying the conditions of storage and use.

### II. Records designated as not archival by the Records Disposition Panel

It is the intent of the panel that records designated as not archival be appropriately destroyed in accordance with approved records retention schedules or approved applications for authority to dispose of records (Minnesota Statutes Chapter 138.17<sup>5</sup>, subd. 1). The panel may order the method of destruction to be used. These methods may be shredding, incinerating, recycling, or placing in landfills, depending on the privacy status of the records and on local disposition alternatives and requirements.

If an organization other than the creating or successor agency requests custody of such records, the records disposition panel may approve transfer, subject to specifications of conditions of storage and use. The panel will consider requests on a case-by-case basis.

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<sup>1</sup> Minnesota Office of the Revisor of Statutes. 2009 *Minnesota Statutes: Chapter 138.17 Government Records; Administration*. 2009. <https://www.revisor.leg.state.mn.us/statutes/?id=138.17>

<sup>2</sup> Minnesota Office of the Revisor of Statutes. 2009 *Minnesota Statutes: Chapter 138.20 Record of Proceedings*. 2009. <https://www.revisor.leg.state.mn.us/statutes/?id=138.20>

<sup>3</sup> Minnesota Office of the Revisor of Statutes. 2009 *Minnesota Statutes: Chapter 138.21 Storage Space Designated by Pane*. 2009. <https://www.revisor.leg.state.mn.us/statutes/?id=138.21>

<sup>4</sup> Minnesota Office of the Revisor of Statutes. 2009 *Minnesota Statutes: Chapter 15.17: Official Records*. 2009. <https://www.revisor.leg.state.mn.us/statutes/?id=15.17>

<sup>5</sup> Minnesota Office of the Revisor of Statutes. 2009 *Minnesota Statutes: Chapter 138.17 Government Records; Administration*. 2009. <https://www.revisor.leg.state.mn.us/statutes/?id=138.17>

III. Transfers agreements between a local/county historical society and a repository other than the Minnesota Historical Society/Minnesota State Archives

Transfer agreements must clearly identify the records in question; the manner in which the [LOCAL/COUNTY HISTORICAL SOCIETY] will comply with Minnesota Statutes Chapter 13 (Minnesota Government Data Practices Act); and which copyrights are pertinent. A copy of this agreement shall be filed with the Minnesota Historical Society pursuant to Minnesota Statutes Chapter 138.20<sup>6</sup>. The “Application for Authority to Dispose of Records” (PR-1 Form<sup>7</sup>) may be used to approve such transfers.

When an agency retains reproductions of the records and transfers the originals to another repository, the reproduction becomes the official record. In these cases, the agency must mark on each volume or each sheet of loose paper that it is no longer the official record.

The panel reserves the right to set conditions on these transfers. Such conditions may be dependent upon legal distinctions between, and access requirements for, private and government repositories. No transfers to individuals will be approved.

The model agreement in *Appendix B* of these guidelines is used to approve the transfer of government records from the office of origin to repositories other than the State Archives.

## Government Records Depository Agreement

Use this model agreement to create an agreement between a government agency and a repository other than the State Archives. Refer to *Appendix A* in these guidelines for requirements and instructions of such a transfer.

### GOVERNMENT RECORDS DEPOSITORY AGREEMENT

This **AGREEMENT** is entered on the last day of execution below between the [LOCAL UNIT OF GOVERNMENT], the [LOCAL/COUNTY HISTORICAL SOCIETY], and the Minnesota Historical Society, and is made for the purpose of the transfer of [NAME OF RECORDS].

#### RECITALS

Whereas, the following facts support this Agreement:

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<sup>6</sup> Minnesota Office of the Revisor of Statutes. *2009 Minnesota Statutes: Chapter 138.20 Record of Proceedings*. 2009. <https://www.revisor.leg.state.mn.us/statutes/?id=138.20>

<sup>7</sup>Minnesota Historical Society. *Application for Authority to Dispose of Records Form*. State Archives. [http://www.mnhs.org/preserve/records/docs\\_pdfs/PR1form.pdf](http://www.mnhs.org/preserve/records/docs_pdfs/PR1form.pdf)

Minnesota State Archives  
Government Record Depository Agreement and Instructions

A. The government officials of [LOCAL UNIT OF GOVERNMENT] have prepared and maintained [NAME OF RECORDS], dated [DATE RANGE OF RECORDS] as official records, as required by Minnesota Statutes Chapter 15.17.

B. Pursuant to Minnesota Statutes Chapter 138.161 through 138.25, the Minnesota Historical Society administers the State Archives and may accept government records as a gift.

C. The [LOCAL/COUNTY HISTORICAL SOCIETY] is prepared to take custody of the [NAME OF RECORDS], dated [DATE RANGE OF RECORDS], to preserve and maintain them for future research.

D. All parties desire to preserve the [NAME OF RECORDS], dated [DATE RANGE OF RECORDS], for future research and their historical value.

**NOW, THEREFORE**, it is hereby agreed by and between the parties:

A. That [LOCAL UNIT OF GOVERNMENT] will donate the [NAME OF RECORDS], dated [DATE RANGE OF RECORDS], as a gift to the [LOCAL/COUNTY HISTORICAL SOCIETY].

B. It is further agreed that the [LOCAL UNIT OF GOVERNMENT] shall transfer custody of the [NAME OF RECORDS], dated [DATE RANGE OF RECORDS], to the [LOCAL/COUNTY HISTORICAL SOCIETY] to be kept and managed in accordance with the requirements of law and subject to the following conditions:

1. CUSTODY. Custody of the records will be transferred to the [LOCAL/COUNTY HISTORICAL SOCIETY].

2. REVERSION OF CUSTODY. The records will not be transferred to the custody of another institution without authorization from [LOCAL UNIT OF GOVERNMENT] and from the Minnesota Historical Society. If the [LOCAL/COUNTY HISTORICAL SOCIETY] seeks to relinquish custody of the records and its depository rights, it will notify the [LOCAL UNIT OF GOVERNMENT] and the Minnesota Historical Society, in writing, of its intent to destroy or otherwise dispose of the records. Within 90 days of receiving such a notice, the [LOCAL UNIT OF GOVERNMENT] and the Minnesota Historical Society shall advise the [LOCAL/COUNTY HISTORICAL SOCIETY] in writing as to whether or not the records may be destroyed or otherwise disposed of.

3. PUBLIC USE. The records will be available for public use during normal business hours, and access to the records will be provided subject to Minnesota Statutes Chapter 138.17, and Chapter 13 (Minnesota Government Data Practices Act).

4. STORAGE. The records will be placed in a storage area that meets archival storage guidelines as recommended by the Minnesota Historical Society.

Minnesota State Archives  
Government Record Depository Agreement and Instructions

5. DISPLAY. The records may be used by the [LOCAL/COUNTY HISTORICAL SOCIETY] or Minnesota Historical Society for display purposes, provided that standard security precautions are followed in regard to the display.

6. RELEASE OF INTEREST. The undersigned do mutually agree and acknowledge that [LOCAL UNIT OF GOVERNMENT] shall release all interests therein and shall give over to the [LOCAL/COUNTY HISTORICAL SOCIETY] the [NAME OF RECORDS], dated [DATE RANGE OF RECORDS], for the purpose of research.

7. REPRODUCTION OF RECORDS. The [LOCAL UNIT OF GOVERNMENT] agrees that the records or any part thereof may be reproduced by the [LOCAL/COUNTY HISTORICAL SOCIETY] at any time without compensation to the [LOCAL UNIT OF GOVERNMENT].

8. COSTS. The [LOCAL UNIT OF GOVERNMENT] shall pay no costs associated with the maintenance, retrieval, or storage of the records. The [LOCAL/COUNTY HISTORICAL SOCIETY], in accepting custody, care, and control of said records, accepts no liability related to the condition, completeness, maintenance, and use of the records; the [LOCAL/COUNTY HISTORICAL SOCIETY] accepts only the costs related to the physical storage of the records as an archival repository.

9. GUIDELINES. The [LOCAL/COUNTY HISTORICAL SOCIETY] and the [LOCAL UNIT OF GOVERNMENT] agree to follow all guidelines issued by the state Records Disposition Panel and the Minnesota Historical Society governing the disposition of government records to other repositories (*Appendix A*).

C. It is further agreed that each party shall work cooperatively to assure the continued preservation of the [NAME OF RECORDS] as official records.

Dated: \_\_\_\_\_ [LOCAL UNIT OF GOVERNMENT]

By \_\_\_\_\_

By \_\_\_\_\_

Dated: \_\_\_\_\_ [LOCAL/COUNTY HISTORICAL SOCIETY]

By \_\_\_\_\_

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By \_\_\_\_\_

Dated: \_\_\_\_\_ MINNESOTA HISTORICAL SOCIETY

By \_\_\_\_\_

By \_\_\_\_\_