

ADMINISTRATION OF EDUCATION AND PERSONNEL DATA FOR EDUCATION LEADERS

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Public Policy Underlying Data Practice Law

Weigh the public's right to know
with an individual's right to
privacy.



GENERAL RULES FOR EDUCATION AND PERSONNEL DATA

- Key Rules:
 - General Rule of Data Practices; Government Data is Public Unless Designated Non-Public by Statute
 - Conversely, Education and Personnel Data is Non-Public Unless Designated Public by Law or an Exception Exists
 - Primary Rule of Disclosure “Cannot Unring The Bell!”

GENERAL RULES FOR ACCESS TO PERSONNEL DATA

1. Public Data Always Accessible – Examples
 - a. Wages
 - b. Benefits
 - c. Education and previous work
 - d. Existence/status of complaints; discipline
2. Authorization of Subject of Data
3. Court Order

IMPORTANT FERPA PROVISIONS

1. School's ability to disclose data to third parties without consent is limited
2. Parents and Eligible Students have right to full access to records related to the student
3. Parent and Eligible Student has right to challenge "inaccurate, misleading or otherwise inappropriate data" in an education record

DISCLOSURE OF EDUCATION DATA W/O CONSENT – SELECTED SITUATIONS

1. Employees in District with “need to know”
2. Another school to which student is transferring
3. Court Order
4. Directory Information

Education Data and Minnesota Law

Important Differences with FERPA

1. Tennessean Warning
2. Minor can provide consent for disclosure of data
3. “Desk Drawer Exception”

TENNESSEN WARNING

1. Reason for Collection of Data
2. Whether or Not Individual is Required to Provide Data
3. Consequences of Providing or Not Providing Data
4. Identify Parties Who May Have Access

PRACTICE TIPS

- Put data practices policy in place
 - Immediate Response to Data Requests Not Required
 - Ask for Data Requests in Writing
 - Forward Data Requests to School's "Responsible Authority"
 - Separate Public from Non-Public Data (including surveillance video)
 - Consult legal counsel before disclosure

Questions?

