

## **POLICY 406 PUBLIC AND PRIVATE PERSONNEL DATA**

### **I. PURPOSE**

The purpose of this policy is to provide guidance to school district employees as to the data the school district collects and maintains regarding its employees, volunteers, independent contractors, and applicants (“personnel”).

### **II. GENERAL STATEMENT OF POLICY**

- A. All data on individuals collected, created, received, maintained or disseminated by the school district, which is classified by statute or federal law as public, shall be accessible to the public pursuant to the procedures established by the school district.
- B. All other data on individuals is private or confidential.

### **III. DEFINITIONS**

- A. “Public” means that the data is available to anyone who requests it.
- B. “Private” means the data is not public and is accessible only to the following: the subject of the data, as limited by any applicable state or federal law; individuals within the school district whose work assignments reasonably require access; entities and agencies as determined by the responsible authority who are authorized by law to gain access to that specific data; and entities or individuals given access by the express written direction of the data subject.
- C. “Confidential” means the data are not public and are not accessible to the subject.
- D. “Parking space leasing data” means the following government data on an application for, or leasee of, a parking space: residence address, home telephone number, beginning and ending work hours, place of employment location of parking space, and work telephone number.
- E. “Personnel data” means data on individuals collected because they are or were employees of the school district, applicants for employment, volunteers for the school district, or independent contractors for the school district, or members of or applicants for an advisory board or commission. Personnel data include data submitted to the school district by an employee as part of an organized self-evaluation effort by the school district to request suggestions from all

employees on ways to cut costs, make the school district more efficient, or to improve school district operations. The identity of the employee making the suggestion will not be considered personnel data and will be private data.

- F. “Finalist” means an individual who is selected to be interviewed by the school board for a position.
- G. “Protected health information” means individually identifiable health information as defined in 45 C.F.R. § 160.103, that is transmitted by electronic media, maintained in electronic media, or transmitted or maintained in any other form or medium by a health care provider, in connection with a transaction covered by 45 C.F.R. Parts 160, 162 and 164. “Protected health information” excludes individually identifiable health information in education records covered by the Family Educational Rights and Privacy Act, employment records held by a school district in its role as employer; and records regarding a person who has been deceased for more than fifty (50) years.
- H. “Public officials” means business managers; human resource directors; athletic directors whose duties include at least 50 percent of their time spent in administration, personnel, supervision, and evaluation; chief financial officers; directors; and individuals defined as superintendents and principals.

#### **IV. PUBLIC PERSONNEL DATA**

- A. The following information on employees, including volunteers and independent contractors, is public:
  - 1. Name;
  - 2. Employee identification number, which may not be the employee’s social security number;
  - 3. Actual gross salary;
  - 4. Salary range;
  - 5. Terms and conditions of employment relationship;
  - 6. Contract fees;
  - 7. Actual gross pension;
  - 8. The value and nature of employer-paid fringe benefits;
  - 9. The basis for and the amount of any added remuneration, including expense reimbursement, in addition to salary;
  - 10. Job title;
  - 11. Bargaining unit;
  - 12. Job description;
  - 13. Education and training background;
  - 14. Previous work experience;
  - 15. Date of first and last employment;
  - 16. The existence and status of any complaints or charges against the employee, regardless of whether the complaint or charge resulted in a disciplinary

action;

17. The final disposition of any disciplinary action, as defined in Minn. Stat. § 13.43, subd. 2(b), together with the specific reasons for the action and data documenting the basis of the action, excluding data that would identify confidential sources who are employees of the school district;
18. The complete terms of any agreement settling any dispute arising out of the employment relationship, including superintendent buyout agreements, except that the agreement must include specific reasons for the agreement if it involves the payment of more than \$10,000 of public money; and such agreement may not have the purpose or effect of limiting access to or disclosure of personnel data or limiting the discussion of information or opinions related to personnel data;
19. Work location;
20. Work telephone number;
21. Badge number;
22. Honors and awards received;
23. payroll time sheets or other comparable data that are used only to account for employee's work time for payroll purposes, except to the extent that release of time sheet data would reveal the employee's reasons for the use of sick or other medical leave or other not public data.

B. The following information on applicants for employment is public:

1. Veteran status;
2. Relevant test scores;
3. Rank on eligible list;
4. Job history;
5. Education and training; and
6. Work availability.

C. Names of applicants are private data except when certified as eligible for appointment to a vacancy or when applicants are considered by the school board to be finalists for public employment.

D. Names and district, community, company, or agency of applicants for appointment to and members of an advisory board/commission are public.

E. Regardless of whether there has been a final disposition as defined in Minn. Stat. § 13.43, Subd. 2(b), upon completion of an investigation of a complaint or charge against a public official, as defined in Minn. Stat. § 13.43, Subd. 2(e), or if a public official resigns or is terminated from employment while the complaint or charge is pending, all data relating to the complaint or charge are public, unless access to the data would jeopardize an active investigation or reveal confidential sources. Data relating to a complaint or charge against a public official is public only if:

1. the complaint or charge results in disciplinary action or the employee resigns or is terminated from employment while the complaint or charge is pending; or
  2. potential legal claims arising out of the conduct that is the subject of the complaint or charge are released as part of a settlement agreement
- F. Data that is classified as private under another law is not made public by this provision.

## V. PRIVATE PERSONNEL DATA

- A. All other personnel data are private and will only be shared with school district staff whose work requires such access. Private data will not be otherwise released unless authorized by law or by the employee's informed written consent.
- B. Data pertaining to an employee's dependents are private data on individuals.
- C. Data created, collected or maintained by the school district to administer employee assistance programs are private.
- D. Parking space leasing data are private.
- E. An individual's checking account number is private when submitted to a government entity.
- F. Personnel data must be disseminated to labor organizations to the extent necessary to conduct elections, investigate and process grievances, and implement the provisions of Minnesota Statutes chapters 179 and 179A. Personnel data shall be disseminated to labor organizations and the Bureau of Mediation Services ("BMS") to the extent the dissemination is ordered or authorized by the Commissioner of the BMS. Employee Social Security numbers are not necessary to implement the provisions of Chapter 179 and 179A.

The home addresses, nonemployer issued phone numbers and email addresses, dates of birth, and emails or other communications between exclusive representatives and their members, prospective members, and nonmembers are private data on individuals.

Dissemination of personnel data to a labor organization pursuant to Minnesota Statutes, section 13.43, subdivision 6, shall not subject the school district to liability under Minnesota Statutes, section 13.08.

Personnel data described under Minnesota Statutes, section 179A.07, subdivision 8, must be disseminated to an exclusive representative under the terms of that subdivision.

- G. The school district may display a photograph of a current or former employee to

prospective witnesses as part of the school district's investigation of any complaint or charge against the employee.

- H. The school district may, if the responsible authority or designee reasonably determines that the release of personnel data is necessary to protect an employee from harm to self or to protect another person who may be harmed by the employee, release data that are relevant to the concerns for safety to:
  - 1. The person who may be harmed and to the attorney representing the person when the data are relevant to obtaining a restraining order;
  - 2. A pre-petition screening team conducting an investigation of the employee under Minn. Stat. § 253B.07, subd. 1; or
  - 3. A court, law enforcement agency or prosecuting authority.
- I. Private personnel data or confidential investigative data on employees may be disseminated to a law enforcement agency for the purposes of reporting a crime or alleged crime committed by an employee, or for the purpose of assisting law enforcement in the investigation of such a crime or alleged crime, committed by an employee.
- J. A complainant has access to a statement provided by the complainant to the school district in connection with a complaint or charge against an employee.
- K. When allegations of sexual or other types of harassment are made against an employee, the employee shall not have access to data that would identify the complainant or other witnesses if the school district determines that the employee's access to that data would:
  - 1. threaten the personal safety of the complainant or a witness; or
  - 2. subject the complainant or witness to harassment.

If a disciplinary proceeding is initiated against the employee, data on the complainant or witness shall be available to the employee as may be necessary for the employee to prepare for the proceeding.

- L. The school district shall make any report to the Minnesota Professional Educator Licensing and Standards Board ("PELSB") the Board of School Administrators ("BOSA"), whichever has jurisdiction over the teacher's or administrator's license, as required by Minn. Stat. § 122A.20, subd. 2, and shall, upon written request from the licensing board having jurisdiction over license, provide the licensing board with information about the teacher or administrator from the school district's files, any termination or disciplinary proceeding, and settlement or compromise, or any investigative file in accordance with Minn. Stat. § 122A.20, subd. 2.

- M. Private personnel data shall be disclosed to the department of economic security for the purpose of administration of the unemployment insurance program under Minn. Stat. Ch. 268.
- N. When a report of alleged maltreatment of a student in a school is made to the Commissioner of the Minnesota Department of Education (“MDE”) under Minnesota Statutes Chapter 260E, data that are relevant and collected by the school about the person alleged to have committed maltreatment must be provided to the Commissioner on request for purposes of an assessment or investigation of the maltreatment report. Additionally, personnel data may be released for purposes of providing information to a parent, legal guardian, or custodian of a child in accordance with MDE Screening Guidelines.
- O. The school district shall release to a requesting school district or charter school private personnel data on a current or former employee related to acts of violence toward or sexual contact with a student, if
  1. an investigation conducted by or on behalf of the school district or law enforcement affirmed the allegations in writing prior to release and the investigation resulted in the resignation of the subject of the data; or
  2. the employee resigned while a complaint or charge involving the allegations was pending, the allegations involved acts of sexual contact with a student, and the employer informed the employee in writing, before the employee resigned, that if the employee resigns while the complaint or charge is still pending, the employer must release private personnel data about the employee’s alleged sexual contact with a student to a school district or charter school requesting the data after the employee applies for employment with that school district or charter school and the data remain classified as provided in Minnesota Statutes Chapter 13.

Data that are released under this paragraph must not include data on the student.

- P. Data submitted by an employee to the school district as part of an organized self-evaluation effort by the school district to request suggestions from all employees on ways to cut costs, make the school district more efficient, or improve the school district operations is private data. An employee who is identified in a suggestion, however, shall have access to all data in the suggestion except the identity of the employee making the suggestion.
- Q. Protected health information, as defined in 45 C.F.R. Parts 160 and 164, on employees is private and will not be disclosed except as permitted or required by law.

- R. Personal home contact information for employees may be used by the school district and shared with another government entity in the event of an emergency or other disruption affecting continuity of school district operations and may be shared with another government entity in the event of an emergency or other disruption to ensure continuity of operation for the school district or government entity.
- S. The personal telephone number, home address, and electronic mail address of a current or former employee of a contractor or subcontractor maintained as a result of a contractual relationship between the school district and a contractor or subcontractor entered on or after August 1, 2012, are private data. These data must be shared with another government entity to perform a function authorized by law. The data also must be disclosed to a government entity or any person for prevailing wage purposes.
- T. When a continuing contract teacher is discharged immediately because the teacher's license has been revoked due to a conviction for child abuse or sexual offenses involving a child as set forth in Minnesota Statutes, section 122A.40, subdivision 13(b), or when the Commissioner of the MDE makes a final determination of child maltreatment involving a teacher under Minnesota Statutes, section 260E.21, subdivision 4 or 260E.35, the school principal or other person having administrative control of the school must include in the teacher's employment record the information contained in the record of the disciplinary action or the final maltreatment determination, consistent with the definition of public data under Minnesota Statutes, section 13.41, subdivision. 5, and must provide PELSB and the licensing division at MDE with the necessary and relevant information to enable PELSB and MDE's licensing division to fulfill their statutory and administrative duties related to issuing, renewing, suspending, or revoking a teacher's license. In addition to the background check required under Minnesota Statutes, section 123B.03, a school board or other school hiring authority must contact PELSB and MDE to determine whether the teacher's license has been suspended or revoked, consistent with the discharge and final maltreatment determinations. Unless restricted by federal or state data practices law or by the terms of a collective bargaining agreement, the responsible authority for a school district must disseminate to another school district private personnel data on a current or former teacher (employee or contractor) of the district, including the results of background investigations, if the requesting school district seeks the information because the subject of the data has applied for employment with the requesting school district.

## **VI. MULTIPLE CLASSIFICATIONS**

If data on individuals are classified as both private and confidential by Minn. Stat. Ch. 13, or any other state or federal law, the data are private.

## **VII. CHANGE IN CLASSIFICATIONS**

The school district shall change the classification of data in its possession if it is required to do so to comply with other judicial or administrative rules pertaining to the conduct of legal actions or with a specific statute applicable to the data in the possession of the disseminating or receiving agency.

### **VIII. RESPONSIBLE AUTHORITY**

The school district has designated Superintendent Michael Favor as the authority responsible for personnel data. If you have any questions, contact Michael Favor at (651) 423-8226.

The responsible authority, or a school district employee if so designated, shall serve as the school district's data practices compliance official and, as such, shall be the employee to whom persons may direct questions or concerns regarding problems in obtaining access to data or other data practices problems.

### **IX. EMPLOYEE AUTHORIZATION/RELEASE FORM**

An employee authorization form is included as an addendum to this policy.

#### **Legal References:**

Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)  
Minn. Stat. § 13.02 (Definitions)  
Minn. Stat. § 13.37 (General Nonpublic Data)  
Minn. Stat. § 13.39 (Civil Investigation Data)  
Minn. Stat. § 13.43 (Personnel Data)  
Minn. Stat. § 122A.20, subd. 2 (Mandatory Reporting)  
P.L. 104-191 (HIPAA)  
45.C.F.R. Parts 160 and 164 (HIPAA Regulations)

#### **Cross References:**

Policy 6.4 (Protection and Privacy of Pupil Records)  
MSBA Service Manual, Chapter 13, School Law Bulletin "I" (School Records-Privacy-Access to Data)