

# SCHOOL POLICIES INDEPENDENT SCHOOL DISTRICT 16

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<b>SUBJECT</b>	406	Public and Private Personnel Data
<b>Adopted</b>		January 9, 2001
<b>Revised</b>		June 8, 2004, March 8, 2005, June 13, 2006; October 9, 2012; August 12, 2014; September 8, 2015; March 7, 2017; August 8, 2022

## 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 an applicable state or federal law; individuals whose work assignments reasonably require access; entities, agencies, and other parties who are authorized by law to gain access to that specific data; and entities or individuals given access by the express written consent of the data subject.
- C. "Confidential" means the data is not public and is not available to the subject.
- D. "Parking space leasing data" means the following government data on an applicant, or lessee 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 government data on individuals maintained because they are or were employees of the school district, applicants for employment, or volunteers or independent contractors for the school district. 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. An employee who is identified in a suggestion shall have access to all data in the suggestion except the identity of the employee making the suggestion.

- F. "Finalist" means an individual who is selected to be interviewed by the School Board for a position.
- G. "Public official" 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 pursuant to Minnesota Rules, part 3512.0100.

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

- A. The following information on current and former employees, including volunteer 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/employee number;
22. work-related continuing education;
23. honors and awards received; and
24. 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 current and former 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 they become finalists for an employment position.
- D. Applicants for appointment to a public body.
  1. Data about applicants for appointment to a public body collected by the school district as a result of the applicant's application for appointment are private data on individuals except that the following are public:
    - a. name;
    - b. city of residence, except when the appointment has a residency requirement that requires the entire address to be public;
    - c. education and training;
    - d. employment history;
    - e. volunteer work;
    - f. awards and honors;
    - g. prior government service;
    - h. any data required to be provided or that are voluntarily provided in an application for appointment to a multimember agency pursuant to Minn. Stat. § 15.0597; and
    - i. veteran status.
  2. Once an individual is appointed to a public body, the following additional items of data are public:
    - a. residential address;
    - b. either a telephone number or electronic mail address where the appointee can be reached or both at the request of the appointee;
    - c. first and last dates of service on the public body;
    - d. the existence and status of any complaints or charges against an appointee; and
    - e. upon completion of an investigation of a complaint or charge against an appointee, the final investigative report is public, unless access to the data would jeopardize an active investigation.

3. Notwithstanding paragraph 2, any electronic mail address or telephone number provided by a public body for use by an appointee shall be public. An appointee may use an electronic mail address or telephone number provided by the public body as the designated electronic mail address or telephone number at which the appointee can be reached.
- 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.
- F. 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. 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 be shared only 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 may be disseminated to labor organizations to the extent the responsible authority determines the dissemination is necessary for the labor organization to conduct elections, notify employees of fair share fee assessments, and implement the provisions of chapters 179 and 179A, or when ordered or authorized by the Commissioner of the Bureau of Mediation Services.
- 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.
- 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 the 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 board of teaching or the state board of education as required by Minn. Stat. § 122A.20, Subd. 2, and shall, upon written request from the licensing board having jurisdiction over a teacher's license, provide the licensing board with information about the teacher 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 Education, 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 that an incident has occurred that may constitute maltreatment or the child Under Minnesota Statute 260E.15.

- 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 towards or sexual contact with a student, if 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 the employee resigned while a complaint or charge involving the allegations was pending, 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 upon request of a school district or charter school after the employee applies for employment with that school district or charter school. Data that are released under this paragraph must not include data on the student.
- P. When a 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 Minnesota Department of Education (MDE) makes a final determination of child maltreatment involving a teacher under Minnesota Statutes, section 260E.21, subdivision 4 or 260E.35, the school district 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 Minn. Stat. §13.41, Subd. 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.
- Q. 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.
- R. The identity of an employee making a suggestion as part of an organized self-evaluation effort by the school district to cut costs, make the school district more efficient, or to improve school district operations is private.
- S. Health information on employees is private unless otherwise provided by law. To the extent that the school district transmits protected health information, the

school district will comply with all privacy requirements.

- T. Personal home contact information for employees may be used by the school district to ensure that an employee can be reached 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.
- U. 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

## **VI. 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.

## **VII. RESPONSIBLE AUTHORITY**

The school district has designated the Director of Human Resources, or his/her designee, as the authority responsible for personnel data.

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

Staff can contact the school district human resource department for an employee authorization form.

### **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)
- Minn. Stat. § 626.556, Subd. 7 (Reporting of Maltreatment of Minors)