

Personnel

Subpoena of a School District Employee

I. Purpose

This policy protects the privacy rights of school district employees and students under both state and federal law when requested to testify or provide educational records for a judicial or administrative proceeding.

II. General Statement of Policy

This policy provides guidance and direction for a school district employee who is subpoenaed to testify and/or provide educational records for a judicial or administrative proceeding.

III. Data Classification

A. Educational Data

1. State Law

The Minnesota Government Data Practices Act (MGDPA) classifies all educational data, except for directory information as designated by the school district, as private data on individuals. The state statute provides that private data on individuals may not be released, except pursuant to a valid court order or informed consent by the subject of the data or a parent/guardian if the subject of the data is a minor.

2. Federal Law

The Family Educational Rights and Privacy Act (FERPA) provides that educational data may not be released, except pursuant to informed consent by the individual subject of the data or any lawfully issued subpoena. Regulations promulgated under the federal law require that the district must first make a reasonable effort to notify the parent/guardian of the student, or the student if the student is 18 years of age or older, of the subpoena in advance of releasing the information pursuant to the subpoena.

B. Personnel Data

The MGDPA also classifies all personnel data, except for certain data specifically classified as public, as private data on individuals. The state statute provides that private data on individuals may not be released, except pursuant

to a valid court order or informed consent by the subject of the data.

IV. Applications and Procedures

- A. Any employee who receives a subpoena for any purpose related to employment is to inform the building administrator or immediate supervisor when the employee receives the subpoena. The building administrator or supervisor will inform the superintendent or designee that the employee has received a subpoena. The building administrator or immediate supervisor will guide the employee in this process.
- B. No employee may release educational data, personnel data, or any other data of any kind without consultation in advance with the school district official who is designated as the authority responsible for the collection, use, and dissemination of data.
- C. Payment for attendance at judicial or administrative proceedings and the retention of witness and mileage fees is to be determined in accordance with the applicable school board policies and collective bargaining agreements.
- D. The administration will not release any information except in strict compliance with state and federal law and this policy. Recognizing that an unauthorized release may expose the district or its employees to civil or criminal penalties or loss of employment, the administration will confer with district legal counsel prior to release of such data.

Legal References:

20 U.S.C. § 1232g (Family Educational Rights and Privacy Act)
42 U.S.C. § 1983 (Civil Action for Deprivation of Rights)
Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)
Minn. Stat. §§ 121A.40-121A.56 (Pupil Fair Dismissal Act)
Minn. Stat. § 123B.02, subd. 20 (Legal Counsel, Reimbursement)
Minn. Stat. § 123B.25(b) (Legal Actions Against Districts and Teachers)
Minn. Stat. § 466.07, subd. 1 (Indemnification Required)
Minn. Rules 1205.0100, subp. 5 (Minnesota Rules Regarding Data Practices - Legal Proceedings)

Cross References:

Policy 211 (Criminal or Civil Action Against the School District, a School Board Member, Employee, or Student)
Policy 403 (Discipline of School District Employees)
Policy 406 (Public and Private Personnel Data)
Policy 414 (Mandated Reporting of Child Neglect or Physical or Sexual Abuse)
Policy 506 (Student Conduct and Discipline)
Policy 515 (Protection and Privacy of Student Records)

Policy
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Edina, Minnesota

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