

Policy 406 PUBLIC AND PRIVATE PERSONNEL DATA

I. PURPOSE

Personnel data must be carefully managed to ensure the support of the people employed by the school district and to ensure stewardship of the time needed for that management. The purpose of this policy is to provide guidance to Northfield School District employees about the data the district collects and maintains regarding its employees, volunteers, independent contractors, and applicants (“personnel”).

II. GENERAL STATEMENT OF POLICY

- A. All data about individuals collected, created, received, maintained, or disseminated by the district, which is classified by statute or federal law as public, shall be accessible to the public pursuant to the procedures established by the district.
- B. All other data about 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 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.
 - 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 applicant for, or lessee of, a parking space: residence address, home or cell phone 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, applicants for employment, volunteers or independent contractors for the district. Personnel data also include data submitted to the school district by an employee as part of an organized self-evaluation effort by the district to request suggestions from all employees on ways to cut costs, make the school district more efficient, or to improve district operations.
- 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 Code of Federal Regulations ("C.F.R.") Section 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 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% of their time spent in administration, personnel, supervision, and evaluation; chief financial officers, directors, and individuals defined as superintendents, principals, and individuals employed in comparable positions at a charter school.

IV. PUBLIC PERSONNEL DATA

- A. The following information about current and former employees, volunteers and independent contractors of the district, is public:
- Name.
 - Employee identification number, which may not be the employee's Social Security number.
 - Actual gross salary.
 - Salary range.
 - Terms and conditions of employment relationships.
 - Contract fees.
 - Actual gross pension.
 - The value and nature of employer-paid fringe benefits.
 - The basis for and the amount of any added remuneration, including expense reimbursement, in addition to salary.
 - Job title.
 - Bargaining unit.
 - Job description.
 - Education and training background.
 - Previous work experience.
 - Date of first and last employment.
 - The existence and status of any complaints or charges against the employee, regardless of whether the complaint or charge resulted in a disciplinary action.
 - The final disposition of any disciplinary action, as defined in Minnesota Statutes, Section 13.43, Subdivision 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 district.
 - 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 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.

- Work location.
- Work telephone number.
- Badge number.
- Work-related continuing education.
- Honors and awards received.
- 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 about current and former applicants for employment by the district is public:

- Veteran status.
- Relevant test scores.
- Rank on eligible list.
- Job history.
- Education and training.
- 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. Applicants for appointment to a public body:

1. Data about applicants collected by the district through an employment application 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 multi-member agency pursuant to Minnesota Statutes 15.0597.
 - i. Veteran status.

2. Once an individual is appointed to a public body, the following additional 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 in the position.
 - d. The existence and status of any complaints or charges against an appointee.
 - 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 Minnesota Statutes Section 13.43, Subdivision 2(b), upon completion of an investigation of a complaint or charge against a public official, as defined in Minnesota Statutes Section 13.43, Subdivision 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.

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 not listed in Section IV are private data and will not be otherwise released unless authorized by law. The following data are private:
1. Data pertaining to an employee's dependents.
 2. Data created, collected or maintained by the district to administer employee assistance programs.
 3. Parking space leasing data with regard to data on individuals.
 4. An individual's checking account number is private when submitted to a

government entity.

- B. ***Labor Organizations.*** 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 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.

- C. ***Employee photographs.*** The district may display a photograph of a current or former employee to prospective witnesses as part of the district’s investigation of any complaint or charge against the employee.

The district may display a photograph of current employees as part of an employee directory. An employee may request in writing to opt out of having their photograph displayed as part of an employee directory. Written requests should be sent to the Director of Human Resources or designee.

- D. ***Protect from harm.*** The district may, if its 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 the employee may harm, 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 Minnesota Statutes Section 253B.07, Subdivision 1.
3. A court, law enforcement agency or prosecuting authority.

- E. ***Criminal investigations.*** Private personnel data or confidential investigative data on employees may be disseminated to a law enforcement agency for the purpose of reporting a crime or alleged crime committed by an employee, or for the purpose of assisting law enforcement in the investigation of a crime or alleged crime committed by an employee.

- F. **Complaints.** A complainant has access to a statement provided by the complainant to the district in connection with a complaint or charge against an employee.
- G. **Harassment.** When allegations of sexual or other types of harassment are made against an employee, the employee does not have access to data that would identify the complainant or other witnesses if the responsible authority determines that the employee's access to that data would threaten the personal safety of the complainant or a witness, or 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.

- H. **Licensing.** The district must report to the Minnesota Professional Educator Licensing and Standards Board ("PELSB"), or the Board of School Administrators ("BOSA), whichever has jurisdiction over the teacher's or administrator's license as required by Minnesota Statutes, Section 122A.20, subdivision 2, and shall, upon written request from the appropriate 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 Minnesota Statutes, Section 122A.20, subdivision 2.

NOTE: The obligation to make a report set forth in this section applies equally to charter school boards and their executive directors and charter school authorizers.

- I. **Unemployment insurance.** Private personnel data shall be disclosed to the Department of Employment and Economic Development for the purpose of administration of the unemployment insurance program under Minnesota Statutes. Ch. 268.
- J. **Student maltreatment.** When a report of alleged maltreatment of a student in an elementary, middle school, high school or charter 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 facility 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.
- K. **Sexual contact.** The district shall release to a requesting 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 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.
 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 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.

- L. ***District surveys.*** Data submitted by an employee to the district as part of an organized self-evaluation effort by the district to request suggestions from all employees on ways to cut costs, make the district more efficient, or improve the 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.
- M. ***Protected health information.*** Protected health information about employees, as defined in 45 C.F.R. Parts 160 and 164, is private and will not be disclosed - except as permitted or required by law.
- N. ***Home contact information.*** Personal home contact information for employees may be used by the district to ensure that an employee can be reached in the event of an emergency or other disruption affecting continuity of district operation and may be shared with another government entity in the event of an emergency or other disruption to ensure continuity of operation for the district or government entity.
- O. ***Contractor or subcontractor home contact information.*** 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 district and a contractor or subcontractor entered on or after Aug. 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.
- P. ***License revocation.*** 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 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 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 Minnesota Statutes Chapter 13, or any other state or federal law, the data are private.

VII. CHANGE IN CLASSIFICATIONS

The district shall change the classification of data in its possession if it is required to do so to comply with other either 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 district has designated the Superintendent or his/her designee as the authority responsible for personnel data.

The responsible authority, or a district employee if so designated, shall serve as the 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.

Policy 406 Public and Private Personnel Data

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Board of Education

NORTHFIELD SCHOOL DISTRICT NO. 659

Northfield, Minnesota

Legal References: Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)
Minn. Stat. § 13.02 (Definitions)
Minn. Stat. § 13.03 (Access to Government Data)
Minn. Stat. § 13.05 (Duties of Responsible Authority)
Minn. Stat. § 13.37 (General Nonpublic Data)
Minn. Stat. § 13.39 (Civil Investigation Data)
Minn. Stat. § 13.41 (Licensing Data – Public Data)
Minn. Stat. § 13.43 (Personnel Data)

Minn. Stat. § 13.601. subd. 3 (Applicants for Employment)
Minn. Stat. § 122A.20, subd. 2 (Mandatory Reporting)
Minn. Stat. § 122A.40, subds. 13 and 16 (Employment; Contracts; Termination)
Minn. Stat. § 123B.03 (Background Check)
Minn. Stat. § 123B.143, Subd. 2 (Disclose Past Buyouts)
Minn. Stat. Ch. 179 (Minnesota Labor Relations Act)
Minn. Stat. Ch. 179A (Minnesota Public Labor Relations Act)
Minn. Stat. § 253B.07, (Judicial Commitment: Preliminary Procedures)
Minn. Stat. § 260E (Reporting of Maltreatment of Minors)
Minn. Stat. Ch. 268 (Unemployment Insurance)
Minn. R. Pt. 1205 (Data Practices)
P.L. 104-191 (HIPPA)
45 C.F.R. Parts 160, 162 and 164 (HIPPA Regulations)

Cross References: MSBA/MASA Model Policy 206 (Public Participation in School Board Meetings/Complaints about Persons at School Board Meetings and Data Privacy Considerations)
MSBA/MASA Model Policy 515 (Protection and Privacy of Pupil Records)
MSBA/MASA Model Policy 722 (Public Data Requests)
MSBA Law Bulletin “I” (School Records-Privacy-Access to Data)