

## Policy 408 SUBPOENA OF A SCHOOL DISTRICT EMPLOYEE

### I. PURPOSE

The purpose of this policy is to protect privacy rights under both state and federal law. This policy provides guidance and direction for school district employees who may be subpoenaed to testify and/or provide educational records for a judicial or administrative proceeding.

### II. PROCEDURES

- A. Any employee who receives a subpoena for any purpose related to employment is to inform the building administrator or designated supervisor when the employee receives the subpoena. The building administrator or designated supervisor shall immediately inform the superintendent that the employee has received a subpoena.
- 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 shall not release any information except in strict compliance with state and federal law and this policy. Recognizing that an unauthorized release may expose the school district or its employees to civil or criminal penalties or loss of employment, the administration shall confer with school district legal counsel prior to release of such data.

### III. DATA CLASSIFICATION

- A. The Minnesota Government Data Practices Act (MGDPA), Minn. Stat. Ch. 13, 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 informed consent by the subject of the data or pursuant to a valid court order. A subpoena is not a court order under the MGDPA.**
- B. The Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g, 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 school district must first make a reasonable effort to notify the parent 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.

- C. The MGDPA, Minn. Stat. Ch. 13, 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.**

Policy 408 - Subpoena of a School District Employee  
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School Board  
INDEPENDENT SCHOOL DISTRICT 659  
Northfield, Minnesota

***Legal References:*** Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)  
Minn. Rules 1205.0100, Subp. 5 (Minnesota Rules Regarding Data Practices)  
20 U.S.C. § 1232g (Family Educational Rights and Privacy Act)

***Cross References:*** Policy 211 - Criminal or Civil Action Against School District, School Board Member, Employee, or Student  
Policy 515 (Protection and Privacy of Pupil Records)  
MSBA Service Manual, Chapter 13, School Law Bulletin "I" (School Records-Privacy-Access to Data)