

Intermediate District 287

RESPONSIVE. INNOVATIVE. SOLUTIONS.

DISTRICT POLICY

POLICY SERIES: Data Privacy and Records

SUBJECT: Personnel Data Privacy

BOARD APPROVED: February 2013

REVISION DATE:

DPR120 Personnel Data Privacy

I. PURPOSE

The purpose of this policy is to provide parameters as to the data the District maintains regarding its personnel.

II. GENERAL STATEMENT OF POLICY

A. All data on 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 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 available to the subject of the data and to District staff who need it to conduct the business of the District.

C. "Confidential" means the data is not available to the subject.

D. "Personnel data" means government data on individuals maintained because they are or were employees of the District, applicants for employment, volunteers for the District, or members of or applicants for an advisory board or commission. Personnel data include data submitted to the 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 District more efficient, or to improve 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.

E. "Finalist" means an individual who is selected to be interviewed by the District for a position.

F. "Protected health information," means individually identifiable health information transmitted in electronic form by a school district acting as a health care provider. "Protected health information" excludes health information in education records covered by FERPA and employment records held by the District in its role as employer.

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, as applicable;
 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 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. 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 applicants for employment or to an advisory board/ commission 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. 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, and only if 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 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 with another person.

V. PRIVATE PERSONNEL DATA

- A. All other personnel data are private and will only be shared with 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 District to administer employee assistance programs are private.
- D. Personnel data may be disseminated to labor organizations to the extent the District determines it is necessary for the labor organization to conduct its business or when ordered or authorized by the Commissioner of the Bureau of Mediation Services.
- E. 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.
- F. The 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.
- G. 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 such a crime or alleged crime.

- H. A complainant has access to a statement provided by the complainant to the District in connection with a complaint or charge against an employee.
- I. 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 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.
- J. The 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 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.
- K. 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.
- L. 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.
- M. The 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 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.
- N. The identity of an employee making a suggestion as part of an organized self-evaluation effort by the District to cut costs, make the District more efficient, or to improve District operations is private.
- O. Health information on employees is private unless otherwise provided by law. To the extent that the District transmits protected health information, the District will comply with all privacy requirements.
- P. Personal home contact information for employees may be used by the District and 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.

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 classification of data in the possession of the District shall change 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. DESTRUCTION AND RETENTION OF RECORDS

Destruction and retention of personnel records by the District shall be controlled by state and federal law, as follows:

- A. The District shall comply with the general records retention schedule for school districts approved by the Minnesota Records Disposition Panel.
- B. For data not listed under the retention schedule approved by the Minnesota Records Disposition Panel, the District shall comply with the authority of the proper state or federal agency.
- C. The administration shall develop procedures to assure compliance with state and federal authority on data retention and destruction of records.

IX. RESPONSIBLE AUTHORITY

- X. The Board has designated Sandra Lewandowski, Superintendent, 1820 Xenium Lane North, Plymouth, MN 55441 as the Responsible Authority with overall responsibility for the maintenance and security of personnel data. The Responsible Authority delegates the maintenance and security of personnel data duties to Anne Becker, General Counsel and Director of Human Resources, 1820 Xenium Lane North, Plymouth, MN 55441.

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: