

408 SUBPOENA OF A SCHOOL DISTRICT EMPLOYEE

I. PURPOSE

The purpose of this policy is to protect 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 is to provide guidance and direction for school district employees who may be 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), 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 a valid court order or informed consent by the subject of the data or a parent if the subject of the data is a minor.

2. Federal Law

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.

B. Personnel Data

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.

IV. APPLICATION AND PROCEDURES

- A. Any employee who receives a subpoena for any purpose related to employment is to inform the building administrator and the Executive Director of Human Resources when the employee receives the subpoena.
- B. No employee may release educational data, personnel data, or any other data of any kind without consultation in advance with the Executive Director of Human Resources who is designated as the authority responsible for the collection, use and dissemination of data.
- C. School District employees who are subpoenaed to testify in a court proceeding or deposition shall receive their regular pay and mileage allowances based on school board policies and collective bargaining agreements. Any payment received by an employee from the court or attorney issuing the subpoena shall be signed over to the school district.
- 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.

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

BOARD POLICY 408

St. Cloud Area School District 742
St. Cloud, Minnesota

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