

I. PURPOSE

The purpose of this policy is to protect the privacy rights of school 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 employees who may be subpoenaed to testify and/or provide educational records for a judicial or administrative proceeding.

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.

IV. APPLICATION AND 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 School Director 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 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.

ADOPTED: MAY 5, 2008 JKL
AMENDED: 12May11

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 or its employees to civil or criminal penalties or loss of employment, the administration shall confer with school 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)