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212 School Board Data and Privacy Requirements Policy

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I. PURPOSE

The Three Rivers Montessori school board recognizes the value of participation by the public in deliberations and decisions on school matters, while also following applicable laws on data privacy practices. The purpose of this policy is to provide procedures to assure open and orderly public discussion as well as to protect the due process and privacy rights of individuals under the law.

II. GENERAL STATEMENT OF POLICY

The Three Rivers Montessori Board of Directors is committed to upholding data privacy while also promoting appropriate transparency with the public. This policy outlines the privacy protections provided to stakeholders and clarifies the distinction between public and private data.

III. DEFINITIONS

“Personnel data” means data on individuals collected because the individual is or was an employee or applicant for employment. For purposes of this policy, “employee” includes a volunteer or an independent contractor.

As outlined in Minn. Stat § 13.43, the following personnel data on current and former employees, volunteers, and independent contractors of a government entity is public:

(1) name; employee identification number, which must not be the employee's Social Security number; actual gross salary; salary range; contract fees; actual gross pension; the value and nature of employer paid fringe benefits; and the basis for and the amount of any added remuneration, including expense reimbursement, in addition to salary;

(2) job title; job description; education and training background; and previous work experience;

(3) date of first and last employment;

(4) the existence and status of any complaints or charges against the employee, regardless of whether the complaint or charge resulted in a disciplinary action;

(5) the final disposition of any disciplinary action 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 public body;

(6) the terms of any agreement settling any dispute arising out of an employment relationship, including a buyout agreement as defined in section 123B.143, subdivision 2, paragraph (a); except that the agreement must include specific reasons for the agreement if it involves the payment of more than \$10,000 of public money;

(7) work location; a work telephone number; badge number; and honors and awards received; and

(8) payroll time sheets or other comparable data that are only used to account for an 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.

Exceptions to the above listed information are described in Minn. Stat § 13.43 subdivision 5, and are also subject to the limitations described in subdivision 5a.

Personnel data on current and former applicants for employment that is “public” includes:

Veteran status; relevant test scores; rank on eligible list; job history; education and training; and work availability. Names of applicants shall be private data except when certified as eligible for appointment to a vacancy or when applicants are considered by the appointing authority to be finalists for a position in public employment. For purposes of this subdivision, “finalist” means an individual who is selected to be interviewed by the appointing authority prior to selection.

“Educational data” means data maintained by the school which relates to a student.

“Student” means an individual currently or formerly enrolled or registered in the school, or applicants for enrollment, or individuals who receive shared time services.

Data about applicants for appointments to a public body, including a school board, collected by the school as a result of the applicant’s application for appointment to the public body are private data on individuals, except that the following are public: name; city of residence, except where the appointment has a residency requirement that requires the entire address to be public; education and training; employment history; volunteer work; awards and honors; prior government service; any data required to be provided or that is voluntarily provided in an application to a multi-member agency pursuant to Minn. Stat. § 15. 0597; and veteran status. Once an individual has been appointed to a public body, the following additional items of data are public: residential address; either a telephone number or electronic mail address where the appointee can be reached, or both at the request of the appointee; the first and last dates of service on the public body; the existence and status of any complaints or charges against an appointee; and, upon completion of an investigation of a complaint or charge against an appointee, the final investigative report unless access to the data would jeopardize an active investigation.

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.

IV. RIGHTS TO PRIVACY

School employees have a legal right to privacy related to matters which may come before the school board, including, but not limited to, the following:

1. Right to a private hearing for teachers, pursuant to Minn. Stat. § 122A.40, Subd. 14 (Teachers Discharge Hearing);
2. Right to privacy of personal data as provided by Minn. Stat. § 13.43 (Personnel Data);
right to consideration by the school board of certain data treated as not public as provided in Minn. Stat. § 13D.05 (Not Public Data);
3. Right to a private hearing for licensed or non-licensed head varsity coaches to discuss reasons for non-renewal of a coaching contract pursuant to Minn. Stat. § 122A.33, Subd. 3.

School students have a legal right to privacy related to matters which may come before the school board, including, but not limited to, the following:

1. Right to a private hearing, Minn. Stat. § 121A.47, Subd. 5 (Student Dismissal Hearing);
2. Right to privacy of educational data, Minn. Stat. § 13.32 (Educational Data); 20 U.S.C. § 1232g (FERPA);
3. Right to privacy of complaints as provided by child abuse reporting and discrimination laws, Minn. Stat. 260E (Reporting of Maltreatment of Minors) and Minn. Stat. Ch. 363A (Minnesota Human Rights Act).

V. THE PUBLIC'S OPPORTUNITY TO BE HEARD

The school board will strive to give all persons an opportunity to be heard and to have complaints considered and evaluated, within the limits of the law and this policy and subject to reasonable time, place, and manner restrictions. Among the rights available to the public is the right to access public data as provided by Minn. Stat. § 13.43, Subd. 2 (Public Data).

For more information, please see Three Rivers Montessori's policy "Public Participation in Board Meetings".

VI. PENALTIES FOR VIOLATION OF DATA PRIVACY

A. The school is liable for damages, costs and attorney's fees, and in the event of a willful violation, punitive damages for violation of state data privacy laws. (Minn. Stat. § 13.08, Subd. 1).

B. A person who willfully violates data privacy or whose conduct constitutes the knowing unauthorized acquisition of not public data is guilty of a misdemeanor. (Minn. Stat. § 13.09).

C. In the case of an employee, willful violation of the Minnesota data practices law, Chapter 13, and any rules adopted thereunder, including any action subject to a criminal penalty, constitutes just cause for suspension without pay or dismissal. (Minn. Stat. § 13.09).

Legal References:

Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)
Minn. Stat. § 13.43 (Personnel Data)
Minn. Stat. § 13.601, Subd. 3 (Applicants for Appointment)
Minn. Stat. § 13D.05 (Meetings Having Data Classified as Public)
Minn. Stat. § 122A.40, Subd. 14 (Employment; Contracts; Termination; Hearing Procedures)
Minn. Stat. § 122A.44 (Contracting with Teachers; Substitute Teachers)
Minn. Stat. Ch. 363A (Minnesota Human Rights Act)
Minn. Stat. Ch. 260E (Reporting of Maltreatment of Minors)
20 U.S.C. § 1232g (Family Educational Rights and Privacy Act)

Cross References:

Three Rivers Montessori School Board Policy - Public Participation in Board Meetings
Three Rivers Montessori School Board Policy - Open and Closed Meetings
Three Rivers Montessori School Board Policy - School Board Meeting Minutes
MSBA School Law Bulletin "C" (Minnesota's Open Meeting Law)
MSBA School Law Bulletin "I" (School Records – Privacy – Access to Data)