



## **Policy 406 Public and Private Personnel Data**

### **BrightWorks Public and Private Personnel Data**

Copied from 406 MSBA Model Policy Manual, Public and Private Personnel Data

*Note: The provisions of this policy accurately reflect the Minnesota government Data Practices Act and are not discretionary in nature.*

#### **I. PURPOSE**

The purpose of this policy is to provide guidance to school district employees as to the data BrightWorks collects and maintains regarding its employees, volunteers, independent contractors, and applicants (“personnel”).

#### **II. GENERAL STATEMENT OF POLICY**

- A. All data on individuals collected, created, received, maintained, or disseminated by BrightWorks, which is classified by statute or federal law as public, shall be accessible to the public pursuant to the procedures established by BrightWorks.

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 not public and is accessible only to the following: the subject of the data, as limited by any applicable state or federal law; individuals within BrightWorks whose work assignments reasonably require access; entities and agencies as determined by the responsible authority who are authorized by law to gain access to that specific data; and entities or individuals given access by the express written direction of the data subject.
- C. “Confidential” means the data are not public and are not accessible to the subject.
- D. “Parking space leasing data” means the following government data on an applicant for, or lessee of, a parking space: residence address, home telephone number, beginning and ending work hours, place of employment, location of parking space, and work telephone number
- E. “Personnel data” means government data on individuals maintained because they are or were employees, applicants for employment, volunteers or independent contractors



for BrightWorks. Personnel data include data submitted by an employee to BrightWorks as part of an organized self-evaluation effort by BrightWorks to request suggestions from all employees on ways to cut costs, make BrightWorks more efficient, or to improve BrightWorks operations.

- F. “Finalist” means an individual who is selected to be interviewed by the Executive Board for a position.
- G. “Protected health information” means individually identifiable health information as defined in 45 C.F.R. § 160.103, that is transmitted by electronic media, maintained in electronic media, or transmitted or maintained in any other form or medium by a health care provider, in connection with a transaction covered by 45 C.F.R. Parts 160, 162 and 164. “Protected health information” excludes individually identifiable health information in education records covered by the Family Educational Rights and Privacy Act, employment records held by BrightWorks in its role as employer; and records regarding a person who has been deceased for more than fifty (50) years.
- H. “Public officials” means business manager and executive director whose duties include at least fifty (50) percent of their time spent in administration, personnel, supervision, and evaluation.

#### IV. PUBLIC PERSONNEL DATA

- A. The following information on current and former employees, volunteers and independent contractors of the school district, 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;
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 Minnesota Statutes, section 13.43, subdivision. 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 school district;
18. the complete terms of any agreement settling any dispute arising out of the employment relationship, including executive director 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 current and former applicants for employment by the school district 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 applicants are considered by the executive committee to be finalists for public employment.
  
- D. Applicants for appointment to a public body.
  - 1. Data about applicants for appointment to a public body collected by BrightWorks as a result of the applicant's application for employment are private data on individuals except that the following are public:
    - a. name;
    - b. city of residence, except when the appointment has a residency requirement that requires the entire address to be public; education and training;
    - c. employment history;
    - d. volunteer work;
    - e. awards and honors;
    - f. prior government service;
    - g. any data required to be provided or that are voluntarily provided in an application for appointment to a multi member agency pursuant to Minnesota Statutes, section 15.0597; and
    - h. veteran status.

2. Once an individual is appointed to a public body, the following additional items of data are public:
    - a. residential address;
    - b. either a telephone number or electronic mail address where the appointee can be reached, or both at the request of the appointee;
    - c. first and last dates of service on the public body;
    - d. the existence and status of any complaints or charges against an appointee; and
    - e. upon completion of an investigation of a complaint or charge against an appointee, the final investigative report is public, unless access to the data would jeopardize an active investigation.
  3. Notwithstanding paragraph 2., 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.
- E. Regardless of whether there has been a final disposition as defined in Minnesota Statutes, section 13.43, subdivision 2(b), upon completion of an investigation of a complaint or charge against a public official, as defined in Minnesota Statutes, section 13.43, subdivision 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. Data relating to a complaint or charge against a public official is public only if:
1. 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
  2. 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.

Data that is classified as private under another law is not made public by this provision.

V. PRIVATE PERSONNEL DATA

- A. All other personnel data not listed in Section IV are private data will not be otherwise released unless authorized by law.
- B. Data pertaining to an employee's dependents are private data on individuals.
- C. Data created, collected, or maintained by BrightWorks to administer employee assistance programs are private.
- D. Parking space leasing data with regard to data on individuals are private.
- E. An individual's checking account number is private when submitted to a government entity.
- F. BrightWorks may display a photograph of a current or former employee to prospective witnesses as part of BrightWorks' investigation of any complaint or charge against the employee.
- G. BrightWorks may, if its 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 prepetition screening team conducting an investigation of the employee under Minnesota Statutes. section 253B.07, subdivision 1;
  - 3. a court, law enforcement agency, or prosecuting authority.
- H. 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 a crime or alleged crime committed by an employee.
- I. A complainant has access to a statement provided by the complainant to BrightWorks in connection with a complaint or charge against an employee.
- J. When allegations of sexual or other types of harassment are made against an employee, the employee does not have access to data that would identify the complainant or other witnesses if the responsible authority 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.

- K. BrightWorks must report to the Minnesota Professional Educator Licensing and Standards Board (“PELSB”) or the Board of School Administrators (“BOSA”), whichever has jurisdiction over the teacher’s or administrator’s license, as required by Minnesota Statutes, section 122A.20, subdivision. 2, and shall, upon written request from the licensing board having jurisdiction over license, provide the licensing board with information about the teacher or administrator from Metro ECSU’s files, any termination or disciplinary proceeding, and settlement or compromise, or any investigative file in accordance with Minnesota Statutes, section 122A.20, subdivision 2.
- L. Private personnel data shall be disclosed to the Department of Employment and Economic Development for the purpose of administration of the unemployment insurance program under Minnesota Statutes. Ch. 268.
- M. BrightWorks shall release to a 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
1. an investigation conducted by or on behalf of BrightWorks or law enforcement affirmed the allegations in writing prior to release and the investigation resulted in the resignation of the subject of the data; or
  2. the employee resigned while a complaint or charge involving the allegations was pending, the allegations involved acts of sexual contact with a student, and the employer informed the employee in writing, before the employee resigned, that if the employee resigns while the complaint or charge is still pending, the employer must release private personnel data about the employee’s alleged sexual contact with a student to a school district or charter school requesting the data after the employee applies for employment with that school district or charter school and the data remain classified as provided in Minnesota Statutes Chapter 13. Data that are released under this paragraph must not include data on the student.
- N. Data submitted by an employee to BrightWorks as part of an organized self-evaluation effort by BrightWorks to request suggestions from all employees on ways to cut costs, make BrightWorks more efficient, or improve BrightWorks operations is private data. An



employee who is identified in a suggestion, however, shall have access to all data in the suggestion except the identity of the employee making the suggestion.

- O. Protected health information, as defined in 45 C.F.R. Parts 160 and 164, on employees is private and will not be disclosed except as permitted or required by law.
- P. Personal home contact information for employees may be used by BrightWorks to ensure that an employee can be reached in the event of an emergency or other disruption affecting continuity of BrightWorks operations and may be shared with another government entity in the event of an emergency or other disruption to ensure continuity of operation for BrightWorks or government entity.
- Q. The personal telephone number, home address, and electronic mail address of a current or former employee of a contractor or subcontractor maintained as a result of a contractual relationship between BrightWorks and a contractor or subcontractor entered on or after August 1, 2012, are private data. These data must be shared with another government entity to perform a function authorized by law. The data also must be disclosed to a government entity or any person for prevailing wage purposes.

#### VI. MULTIPLE CLASSIFICATIONS

If data on individuals are classified as both private and confidential by Minnesota Statutes Chapter 13, or any other state or federal law, the data are private.

#### VII. CHANGE IN CLASSIFICATIONS

BrightWorks shall change the classification of data in its possession if it is required to do so to comply with either 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. RESPONSIBLE AUTHORITY

BrightWorks has designated the Executive Director as the authority responsible for personnel data.

The responsible authority shall serve as BrightWorks' data practices compliance official and, as such, shall be the employee to whom persons may direct questions or concerns regarding problems in obtaining access to data or other data practices problems.

#### IX. EMPLOYEE AUTHORIZATION/RELEASE FORM

An employee authorization form is included as an addendum to this policy.





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**Consent to Release Data – Request from an Individual**

*An individual asks the government to release his/her private data to an outside entity or person. Because the entry does not have statutory authority to release the data, it must get the individual’s written informed consent.*

**Explanation of Your Rights**

If you have a question about anything on this form, or would like more explanation, please talk to

\_\_\_\_\_ before you sign it.

*[entity contact person name and contact information]*

I, \_\_\_\_\_, give my permission for  
*[name of individual data subject]* *[name of government entity subject]*

to release data about me to \_\_\_\_\_ as described on this form.  
*[name of other entity or person]*

1. The specific data I want \_\_\_\_\_ to release \_\_\_\_\_.  
*[name of government entity]* *[explanation of data]*

2. I understand that I have asked \_\_\_\_\_ to release the data.  
*[name of government entity]*

3. I understand that although the data are classified as private at \_\_\_\_\_, the classification/treatment  
of the data at \_\_\_\_\_ depends on laws or policies  
*[name of government entity]*

that apply to \_\_\_\_\_.  
*[name of other entity or person]*

This authorization to release expires \_\_\_\_\_.  
*[date/time or expiration]*

Individual data subject’s signature \_\_\_\_\_ Date

Parent/guardian’s signature [if needed] \_\_\_\_\_ Date



## **BrightWorks Personnel Data**

*(Moved from Policy to Procedure/Practices)*

Personnel data may be disseminated to labor organizations to the extent the responsible authority determines is the dissemination is necessary for the labor organization to conduct elections, notify employees of fair share fee assessments and implement the provisions of Minnesota Statutes chapters 179 and 179A. Personnel data shall be disseminated to labor organizations and the Bureau of Mediation Services (“BMS”) to the extent the dissemination is ordered or authorized by the Commissioner of the BMS.