TRIO Wolf Creek Distance Learning Charter School #4095

406 PUBLIC AND PRIVATE PERSONNEL DATA

I. PURPOSE

The purpose of this policy is to provide guidance to charter school employees as to the data the charter school collects and maintains regarding its personnel.

II. GENERAL STATEMENT OF POLICY

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

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 charter school staff who need it to conduct the business of the charter school.

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

D. "Personnel data" means data on individuals collected because they are or were employees of the charter school, applicants for employment, volunteers for the charter school, or members of or applicants for an advisory board or commission. Personnel data include data submitted to the charter school by an employee as part of an organized self-evaluation effort by the charter school to request suggestions from all employees on ways to cut costs, make the charter school more efficient, or to improve charter school 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 school board for a position.

F. "Protected health information" means individually identifiable health information transmitted in electronic form by a charter school acting as a health care provider. "Protected health information" excludes health information in education records covered by FERPA (federal Family Educational Rights and Privacy Act) and employment records held by a charter school in its role as employer.

G. "Public officials" means business managers; human resource directors; athletic directors whose duties include at least 50 percent of their time spent in administration, personnel, supervision, and evaluation; chief financial officers; directors; and individuals defined as superintendents and principals.

TRIO Wolf Creek Distance Learning Charter School #4095

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. Job description;
12. Education and training background;
13. Previous work experience;
14. Date of first and last employment;
15. The existence and status of any complaints or charges against the employee, regardless of whether the complaint or charge resulted in a disciplinary action;
16. 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 charter school;
17. The terms of any agreement settling any dispute arising out of the employment relationship, including 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;

18. Work location;
19. Work telephone number;
20. Badge number;
21. Work-related continuing education;
22. Honors and awards received; and
23. 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. Applicants for appointment to a public body.

1. Data about applicants for appointment to a public body 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;
    c. Education and training;
    d. Employment history;
    e. Volunteer work;
    f. Awards and honors;
    g. Prior government service;

h. Any data required to be provided or that are voluntarily provided in an application for appointment to a multimember agency pursuant to Minn. Stat. § 15.0597; and

i. 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 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.

F. 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 are private and will only be shared with charter school 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 charter school to administer employee assistance programs are private.

D. An individual's checking account number is private when submitted to a government entity.

E. Personnel data may be disseminated to labor organizations to the extent the charter school 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.

F. The charter school may display a photograph of a current or former employee to prospective witnesses as part of the charter school's investigation of any complaint or charge against the employee.

G. The charter school 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.

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 such a crime or alleged crime.

I. A complainant has access to a statement provided by the complainant to the charter school 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 shall not have access to data that would identify the complainant or other witnesses if the charter school 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. The charter school shall make any report to the Minnesota Professional Educator Licensing and Standards Board 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 charter school's files, any termination or disciplinary proceeding, and settlement or compromise, or any investigative file in accordance with Minn. Stat. § 122A.20, Subd. 2.

L. 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.

M. 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. Additionally, personnel data may be released for purposes of informing a parent, legal guardian, or custodian of a child that an incident has occurred that may constitute maltreatment of the child, when the incident occurred, and the nature of the conduct that may constitute maltreatment.

N. The charter school 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, in an investigation conducted by or on behalf of the school 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; or 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 or 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 Minn. Stat. Ch. 13. Data that are released under this paragraph must not include data on the student.

O. The identity of an employee making a suggestion as part of an organized self-evaluation effort by the charter school to cut costs, make the charter school more efficient, or to improve charter school operations is private.

P. Health information on employees is private unless otherwise provided by law. To the extent that the charter school transmits protected health information, the charter school will comply with all privacy requirements.

Q. Personal home contact information for employees may be used by the school district or charter school and shared with another government entity in the event of an emergency or other disruption to ensure continuity of operation for the school district or government entity.

R. 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 the school district 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.

S. When a teacher is discharged immediately because the teacher's license has been revoked due to a conviction for child abuse or sexual abuse or when the Commissioner of the Minnesota Department of Education (MDE) makes a final determination of child maltreatment involving a teacher, the school principal or other person having administrative control of the school must include in the teacher's employment record the information contained in the record of the disciplinary action or the final maltreatment determination, consistent with the definition of public data under Minn. Stat. § 13.41, Subd. 5, and must provide the Minnesota Professional Educator Licensing and Standards Board and the licensing division at MDE with the necessary and relevant information to enable the Minnesota Professional Educator Licensing and Standards Board and MDE's licensing division to fulfill their statutory and administrative duties related to issuing, renewing, suspending, or revoking a teacher's license. In addition to the background check required under Minn. Stat. § 123B.03, a school board or other

school hiring authority must contact the Minnesota Professional Educator Licensing and Standards Board and MDE to determine whether the teacher's license has been suspended or revoked, consistent with the discharge and final maltreatment determinations. Unless restricted by federal or state data practices law or by the terms of a collective bargaining agreement, the responsible authority for a charter school must disseminate to another school district private personnel data on a current or former teacher (employee or contractor) of the district, including the results of background investigations, if the requesting school district seeks the information because the subject of the data has applied for employment with the requesting school district.

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 charter school shall change the classification of data in its possession 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. RESPONSIBLE AUTHORITY

The Charter School Director has been designated as the authority responsible for personnel data. If you have any questions, contact the Director.

IX. RESPONSIBLE AUTHORITY

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

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. § 13.601, Subd. 3 (Elected and Appointed Officials)
Minn. Stat. § 122A.20, Subd. 2 (Mandatory Reporting)
Minn. Stat. § 122A.40, Subds. 13 and 16 (Employment; Contracts; Termination)
Minn. Stat. § 626.556, Subd. 7 (Reporting of Maltreatment of Minors)
P.L. 104-191 (HIPAA)
45 C.F.R. Parts 160 and 164 (HIPAA Regulations)

Cross References:
MSBA Policy 206 (Public Participation in School Board Meetings/Complaints about Persons at School Board Meetings and Data Privacy Considerations)
Policy 515 (Protection and Privacy of Pupil Records)

TRIO Wolf Creek Distance Learning Charter School #4095

MSBA Service Manual, Chapter 13, School Law Bulletin "I" (School Records – Privacy – Access to Data)

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EMPLOYEE AUTHORIZATION FOR RELEASE OF INFORMATION

To: [Charter school/government entity] _____

RE: Personnel Records of [full name]_____

_____
(Date of Birth **and/or** Social Security Number)

This is your full and sufficient authorization, pursuant to Minn. Stat. § 13.05, subd. 4 and Minn. Rules 1205.1400, subp. 4, to release to _____, their representatives or employees, all information pertaining to [describe]_____

_____

_____

maintained by the employer, with the following exceptions: _____

_____

The information is needed for the purpose of [specify]: _____

_____

This authorization specifically includes records prepared prior to the date of this authorization and records prepared after the date of this authorization, such records to be used only for the purpose specified. I do not authorize re-release of this information by the third party.

I understand that I may revoke this consent in writing at any time. Upon the fulfillment of the above-stated purpose, this consent will automatically expire without my express revocation. A photocopy of this authorization will be treated in the same manner as an original.

Dated: _____ _____
Signature of Employee

ATTENTION PUBLIC FACILITIES: Minnesota Statutes Section 13.05 requires automatic expiration of this authorization one (1) year from the date of authorization.