



1040 A

Procedures, Responsibility and Enforcement

Regulation 1040 A

Original Adoption: 11/10/2002
Revision Dates: 08/14/2007, 08/28/2012

Effective Date: 08/29/2012

I. PURPOSE

The purpose of this regulation is to provide the direction needed to assure that school sites and the District are in compliance with the state and federal laws governing creation, collection, maintenance and dissemination of data on individuals.

II. DEFINITIONS

The following definitions apply to this regulation and to District Policy.

- A. “Responsible Authority” is that person named by the Board of Directors as the person charged with the responsibility for providing compliance with state and federal law regarding the creation, collection, maintenance and dissemination of data on students and employees of the District.
- B. “Compliance Official” is that person named by the Board of Directors as the person charged with responding to complaints regarding requests for and responses to requests for data created, collected, maintained or disseminated by the District.
- C. “Defined Directory Information” is that information regarding a student, the student’s parent or person acting as parent, or staff member that is permitted to be disclosed to the person requesting it pursuant to district policy.
- D. “Government Agencies” shall mean federal, state or local governmental agencies.

III. DUTIES OF THE RESPONSIBLE AUTHORITY, COMPLIANCE OFFICIAL AND DESIGNEES

A. *Responsible Authority.*

1. The Responsible Authority shall:
 - (a) Provide for overall compliance with the policy, procedures, and the state and federal laws governing access to District records;
 - (b) Appoint designees to assure compliance with this policy and the laws governing access to district data;
 - (c) Prepare a public document containing the Responsible Authority’s name, title and address and a description of each category of record, file or process relating to private or confidential data on individuals;
 - (d) Develop and maintain documents outlining procedures for access to District records, for maintaining safety and security of District records and for challenges to the accuracy and completeness of records maintained by the district;
 - (e) Update public access procedures by August 1 of each year; and



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- (f) Provide annual notice of rights under state and federal laws to parents and students currently in attendance at a District school.
 2. The Responsible Authority may prepare summary data upon request subsequent to the procedures described in section IV.D. below.
- B. Data Practices Compliance Official. The data practices Compliance Official shall respond to questions and concerns of persons who are having problems obtaining access to information or having other problems relating to compliance with the Minnesota Government Data Practices Act.
- C. Designees. Any designee appointed in writing by the Responsible Authority shall comply with the duties assigned to him or her.

IV. DUTIES OF DISTRICT PERSONNEL

A. Related to Requests for Access:

1. District personnel who are not designees or otherwise responsible for responding to requests for District records should direct the requester to the appropriate Designee or forward the request to the appropriate Designee.
2. District personnel may require the requester to make his or her request in writing.
3. District personnel shall confirm the identity of any individual requesting access or copies of private information to assure that the individual is authorized to see or receive the information. This may include a request to see a picture ID or other reliable form of identification.
4. District personnel shall release private education records on students to other District personnel only if they need to have access to the records in order to do their jobs.
5. District personnel may release private information on individuals to appropriate people in the case of a health or safety emergency involving the individual.
6. District personnel shall release education records to a court if the court issues a subpoena or court order requiring the release. District personnel shall attempt to notify the student (if over 18-years-old) or the minor student's parents prior to releasing the information to the court.
7. District personnel shall release private information on an individual under the following circumstances:
 - (a) The person requesting the information has a valid consent to release information signed by the data subject, or the data subject's parent or guardian (for data subjects who are under 18-years-old) and District personnel are able to confirm the identification of the person requesting the information, or
 - (b) The person requesting the information is authorized by law to have access to the information, or
 - (c) A court has ordered the release of the information, or
 - (d) the person requesting the information is requesting defined directory information based on their representation of a government agency.



B. Related to maintaining Security of Private Information

1. District personnel who maintain files or other private information on individuals shall maintain the files or other data in such a way as to assure the safety and security of the data.
2. Under no circumstances shall a district employee leave files or other private information on individuals in an unoccupied vehicle, including data stored on a laptop computer, electronic storage device, or computer disk or CD.
3. District personnel shall not release private information to anyone until they can confirm that the person requesting the information is entitled to have access to the information by policy, law, court order or consent of the data subject. District personnel who need private information on individuals in order to do their jobs are authorized by law to have access to the information.
4. If District personnel no longer need to retain private or confidential data, the employees should destroy the data.
 - (a) If the data to be destroyed is recorded on paper, the paper should be shredded.
 - (b) If the data is recorded on an electronic device or medium, the data should be removed from the device or medium, and/or the medium physically destroyed.

C. Related to Requests for Copies of District Data

1. District personnel shall provide copies of District data to requestors upon receipt of payment, if required, in accordance with guidelines for payment of copying costs prepared by the Responsible Authority.
2. District personnel shall provide copies of public data in a reasonable time after receiving a written request for the data.
3. District personnel shall provide copies of private data within ten days of the written request for the data from the data subject.

D. Related to Requests for Summary Data

1. In all cases the Responsible Authority shall determine whether or not a request for summary data shall be granted.
2. All requests for summary data must be in writing. The responsible authority may provide a form for this purpose.
3. The costs of preparation of summary data shall be borne entirely by the requester. No summary data report shall be prepared prior to receipt of the complete cost of the request as determined below.
4. The Responsible Authority shall notify the requester of summary data within ten (10) working days
 - (a) whether or not the request for summary data will be granted; in the event that the request is not to be granted the responsible authority will give a written statement to the requester of the reasons that the requester's access to the data would compromise the private or confidential data.
 - (b) the estimated cost of preparing the summary data report; costs shall be determined by considering:



- [i] the cost of materials, including paper, used to prepare and provide the data;
 - [ii] the cost of the labor required to prepare the data; however, if the preparation of the report requires only copying reports already in existence, only the standard costs of copying shall be charged and not the labor required to copy the report.
 - [iii] standard copying charges used by the District to determine copying costs;
 - [iv] any special costs necessary to produce such copies from machine based record keeping systems, including but not limited to computers and microfilm or microfiche systems;
 - [v] costs of mailing or delivery
 - [vi] the responsible authority may take into account the reasonable value to the District of the summary data report prepared and where appropriate reduce the costs assessed to the requesting person.
- (c) provide a written statement describing the time schedule for preparing the requested summary data;
5. In the event that the responsible authority determines that the requester may have access to private or confidential data with which to prepare summary data, the responsible authority shall:
- (a) obtain a signed nondisclosure agreement from the requester.
 - (b) The nondisclosure agreement may be made part of the request form provided by the responsible authority.
 - (c) The nondisclosure agreement shall include:
 - [i] a general description of the private or confidential data which is to be used to prepare the summary data;
 - [ii] the purpose for which the summary data is being prepared; and
 - [iii] a statement that the requester understands that he or she may be subject to civil or criminal penalties imposed by law in the event that private or confidential data is disclosed by him or her;

V. CONSEQUENCES FOR FAILURE TO COMPLY WITH POLICY AND PROCEDURES

- A. A willful violation of the Minnesota Government Data Practices Act is classified as a misdemeanor, a crime punishable by a fine of up to \$1,000 and/or 90 days in jail. The District may refer incidents of willful violations to the proper law enforcement agencies.
- B. A District employee who violates the data practices compliance law or regulations or district policy may receive discipline consistent with collective bargaining agreements, Minnesota and federal law up to and including termination from employment.
- C. Minneapolis Public Schools shall cooperate with investigation of any District employee or any person given access to data under section IV.D.5. suspected of



violating this policy, or the underlying statutes, and shall appropriately discipline any District employee found to have willfully committed a violation.

Legal References:

20 USC 1232g (Family Educational Rights and Privacy Act [FERPA])

34 CFR Part 99 (Family Educational Rights and Privacy Act [FERPA] Regulations)

Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)

Minn. Rules Chapter 1205 (Data Practices)

Cross References:

MPS Policy 1040 (Student and Staff Data Protection)