



*Adopted: June 4, 1996*

*EMID 6067 Board Policy 408*

*Revised: November 16, 2005, February 2008, October 2008; December, 2014*

## **408 SUBPOENA OF AN EMID EMPLOYEE**

### **I. PURPOSE**

The purpose of this policy is to protect the privacy rights of EMID employees, and students both current and former, under state and federal law when requested to testify or provide education records for a judicial or administrative proceeding.

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

This policy is to provide guidance and direction for EMID employees who may be subpoenaed to testify and/or provide educational records for a judicial or administrative proceeding.

### **III. DATA CLASSIFICATION**

#### **A. Educational Data**

##### **1. State Law**

The Minnesota Government Data Practices Act (MGDPA), Minn. Stat Ch. 13, classifies all educational data, except for directory information as designated by EMID, as private data on individuals. The state statute provides that private data on individuals may not be released, except pursuant to a valid court order or informed consent by the subject of the data or parent if the subject of the data is a minor.

##### **2. Federal Law**

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 EMID 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.



## B. Personnel Data

The MGDPA, Minn. Stat. Ch. 13. also classifies all personnel data, except for certain data specifically classified as public, as private data on individuals. The state statute provides that private data on individuals may not be released, except pursuant to a valid court order or informed consent by the subject of the data.

## IV. APPLICATION AND PROCEDURES

- A. Any employee who receives a subpoena for any purpose related to employment is to inform the designated supervisor when the employee receives the subpoena. The designated supervisor shall immediately inform the Executive 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 EMID 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.
- D. 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 district or its employees to civil or criminal penalties or loss of employment, the administration shall confer with district 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)

**Cross References:** EMID Policy 211 (Criminal or Civil Action Against School District, School Board Member, Employee, or Student)  
EMID Policy 515 (Protection and Privacy of Pupil Records)  
MSBA Service Manual, Chapter 13, School Law Bulletin "I" (School Records-Privacy-Access to Data)