

**BLUFFVIEW MONTESSORI SCHOOL
POLICY 406
PUBLIC AND PRIVATE PERSONNEL DATA**

I. PURPOSE

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

II. GENERAL STATEMENT OF POLICY

- A. All data on individuals collected, created, received, maintained or disseminated by Bluffview Montessori School, which is classified by statute or federal law as public, shall be accessible to the public pursuant to the procedures established by Bluffview Montessori 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 Bluffview Montessori School staff who need it to conduct the business of Bluffview Montessori School.
- C. "Confidential" means the data is not available to the subject.
- D. "Parking space leasing data" means the following government data on an application for, or lease 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 of Bluffview Montessori School, applicants for employment, or volunteers or independent contractors for Bluffview Montessori School, or members of or applicants for an advisory board or commission. Personnel data includes data submitted to Bluffview Montessori School by an employee as part of an organized self-evaluation effort by Bluffview Montessori School, to request suggestions from all employees on ways to cut costs, make Bluffview Montessori School more efficient, or to improve Bluffview Montessori 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.

- F. "Finalist" means an individual who is selected to be interviewed by the school board for a position.
- G. "Protected health information" means individually identifiable health information **as defined in 45 Code of Federal Regulations, section 160.103, that is transmitted by in 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 Code of Federal Regulations, Parts 160, 162 and 164 by a school district acting as a health care provider.** "Protected health information" excludes **individually identifiable** health information in education records covered by the federal Family Educational Rights and Privacy Act, employment records held by a school district 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 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 **executive director superintendents and principals and in a charter school, individuals employed in comparable positions.**

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. 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 Bluffview Montessori School;
18. the complete terms of any agreement settling any dispute arising out of the employment relationship, including ~~superintendent~~ 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 applicants for employment 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 multi member agency pursuant to Minnesota Statutes, section 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. Is this supportive of cleared employees?

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 are private and will only be shared with Bluffview Montessori 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 Bluffview Montessori School to administer employee assistance programs are private.
- D. Parking space leasing data are private.
- E. An individual's checking account number is private when submitted to a government entity.
- F. Bluffview Montessori School may display a photograph of a current or former employee to prospective witnesses as part of Bluffview Montessori School's investigation of any complaint or charge against the employee.
- G. Bluffview Montessori 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 Minnesota Statutes, section 253B.07, subdivision 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 Bluffview Montessori 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 Bluffview Montessori 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. Bluffview Montessori School 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**, ~~state board of education~~ as required by Minnesota Statutes, section 122A.20, subdivision 2, and shall, upon written request from the licensing board having jurisdiction over **the a teacher's** license, provide the licensing board with information about the teacher **or administrator** from Bluffview Montessori School'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 **D**epartment of **E**mployment and **E**conomic **D**evelopment ~~security~~ for the purpose of administration of the unemployment insurance program under Minnesota Statutes, chapter 268.
- M. When a report of alleged maltreatment of a student in a school is made to the Commissioner of **the Minnesota Department of Education ("MDE")** **under Minnesota Statutes, chapter 260E**, ~~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 **providing** information **to** a parent, legal guardian, or custodian of a child **in accordance with MDE Screening Guidelines** ~~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. Bluffview Montessori 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, if:
1. an investigation conducted by or on behalf of Bluffview Montessori School 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.

- O. ~~Data submitted by an employee to Bluffview Montessori School~~ The identity of an employee making a suggestion as part of an organized self-evaluation effort by Bluffview Montessori School to ~~request suggestions from all employees on ways to~~ cut costs, make Bluffview Montessori School more efficient, or to improve Bluffview Montessori School 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.
- P. ~~Protected h~~Health information, as defined in 45 Code of Federal Regulations, Parts 160 and 164, on employees is private and will not be disclosed except as permitted or required by law unless otherwise provided by law. To the extent that Bluffview Montessori School transmits protected health information, Bluffview Montessori School will comply with all privacy requirements.
- Q. Personal home contact information for employees may be used by Bluffview Montessori School to ensure that an employee can be reached in the event of an emergency or other disruption affecting continuity of Bluffview Montessori School operations and may be shared with another

government entity in the event of an emergency or other disruption to ensure continuity of operation for Bluffview Montessori School or government entity.

- R. The personal telephone number, home address, and electronic mail address of a current or former employee or of a contractor or subcontractor maintained as a result of a contractual relationship between Bluffview Montessori School 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 **continuing contract** teacher is discharged immediately because the teacher's license has been revoked due to a conviction for child abuse or sexual **offenses involving a child as set forth in Minnesota Statutes, section 122A.40, subdivision 13(b),** ~~abuse~~ or when the Commissioner of the ~~Minnesota Department of Education (MDE)~~ makes a final determination of child maltreatment involving a teacher **under Minnesota Statutes, section 260E.21, subdivision 4, or 260E.35,** the Head of School 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 Minnesota Statutes, section 13.41, subdivision 5, and must provide **PELSB** ~~the Minnesota Professional Educator Licensing and Standards Board~~ and the licensing division at MDE the necessary and relevant information to enable **PELSB** ~~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 Minnesota Statutes, section 123B.03, a school board or other school hiring authority must contact **PELSB** ~~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 school district 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 is classified as both private and confidential by Minnesota Statutes, chapter 13, or any other state or federal law, the data is private.

VII. CHANGE IN CLASSIFICATIONS

Bluffview Montessori 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

Bluffview Montessori School has designated Henry Schantzen, Head of School, 507-452-2807, as the authority responsible for personnel data. If you have any questions, contact him.

IX. EMPLOYEE AUTHORIZATION/RELEASE FORM

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. § 13.03 (Access to Government Data)
Minn. Stat. § 13.05 (Duties of Responsible Authority)
Minn. Stat. § 13.37 (General Nonpublic Data)
Minn. Stat. § 13.39 (Civil Investigation Data)
Minn. Stat. § 13.41 (Licensing Data – Public Data)
Minn. Stat. § 13.43 (Personnel Data)
Minn. Stat. § 13.601, Subd. 3 (**Applicants for Employment** ~~Elected and Appointed Officials~~)
Minn. Stat. § 15.0597 (Appointment to Multimember Agencies)
Minn. Stat. § 122A.20, Subd. 2 (Mandatory Reporting)
Minn. Stat. § 122A.40, Subds. 13 and 16 (Employment; Contracts; Termination)
Minn. Stat. § 123B.03 (Background Check)
Minn. Stat. § 123B.143, Subd. 2 (Disclose Past Buyouts)
Minn. Stat. Ch. 179 (Minnesota Labor Relations Act)
Minn. Stat. Ch. 179A (Minnesota Public Labor Relations Act)
Minn. Stat. § 253B.07 (Judicial Commitment: Preliminary Procedures)
Minn. Stat. Ch. 260E (Reporting of Maltreatment of Minors)
Minn. Stat. Ch. 268 (Unemployment Insurance)
Minn. R. Pt. 1205 (Data Practices)
P.L. 104-191 (HIPAA)

45 C.F.R. Parts 160, 162 and 164 (HIPAA Regulations)

Cross References: MSBA/MASA Model Policy 206 (Public Participation in School Board Meetings/Complaints about Persons at School Board Meetings and Data Privacy Considerations)
MSBA/MASA Model Policy 515 (Protection and Privacy of Pupil Records)
MSBA/MASA Model Policy 722 (Public Data Requests)
MSBA Service Manual, Chapter 13, School Law Bulletin “I” (School Records – Privacy – Access to Data)



Bluffview Montessori

Consent to Release Data – Request from an Individual

An individual asks Bluffview Montessori School to release ~~his/her~~ private data to an outside entity or person. Because Bluffview Montessori School 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

_____ [name of Bluffview Montessori School contact person name
and contact information] before you sign it.

]

I, _____, give my permission for Bluffview Montessori School
[name of individual ~~data subject~~]

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

1. The specific data I want Bluffview Montessori School to release include: _____.
[explanation of data]
2. I understand that I have asked Bluffview Montessori School to release the data.
3. I understand that although the data are classified as private at Bluffview Montessori School, the
classification/treatment of the data at _____ depends on laws or
[name of other entity or person]
policies that apply to _____.
[name of other entity or person]

This authorization to release expires _____.
[date/time of expiration]

Individual data subject's signature _____ Date _____

Parent/guardian's signature [if needed] _____ Date _____

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