

BDOTE LEARNING CENTER

Effective Date: 3/19/14	406 PUBLIC & PRIVATE PERSONNEL DATA POLICY
Date: 1/31/14 Revisions:	Approved by: Bdote Board of Directors 3.19.2014

I. Purpose of Policy:

The purpose of this policy is to provide guidance to **Bdote Learning Center (BLC)** employees as to the data **BLC** collects and maintains regarding its personnel.

II. General Statement:

- A. All data on individuals collected, created, received, maintained or disseminated by the school district, which is classified by statute or federal law as public, shall be accessible to the public pursuant to the procedures established by **BLC**.
- 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 and **BLC** staff who need it to conduct the business of **BLC**.
- 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 **BLC**, applicants for employment, or volunteers or independent contractors for **BLC**, or members of or applicants for an advisory board or commission. Personnel data include data submitted to the school district by an employee as part of an organized self-evaluation effort by the school district to request suggestions from all employees on ways to cut costs, make the school district more efficient, or to improve school district 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.

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- G. "Protected health information" means individually identifiable health information transmitted in electronic form by a school district acting as a health care provider. "Protected health information" excludes health information in education records covered by FERPA and employment records held by a school district in its role as employer.

- 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 directors and principals.

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

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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 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 **BLC**
 18. the complete 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
 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

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5. Education and training
 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) *when the appointment has a residency requirement that requires the entire address to be public*
 - 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*

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- 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 school district 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 BLC to administer employee assistance programs are private.
- D. Parking space leasing data are private.
- E. Personnel data may be disseminated to labor organizations to the extent the school district 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.

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- F. **BLC** may display a photograph of a current or former employee to prospective witnesses as part of **BLC's** investigation of any complaint or charge against the employee.
- G. **BLC** 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 school district 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 **BLC** 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. **BLC** shall make any report to the board of teaching 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 **BLC's** files, any termination or disciplinary proceeding, and settlement or compromise, or any investigative file in accordance with Minn. Stat. § 122A.20, Subd. 2.

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- 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. **BLC** 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 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.
- O. The identity of an employee making a suggestion as part of an organized self-evaluation effort by **BLC** to cut costs, make **BLC** more efficient, or to improve school district operations is private.
- P. Health information on employees is private unless otherwise provided by law. To the extent that **BLC** transmits protected health information, **BLC** will comply with all privacy requirements.
- Q. Personal home contact information for employees may be used by **BLC** and shared with another government entity in the event of an emergency or other disruption to ensure continuity of operation for **BLC** 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 **BLC** 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 Minn. Stat. Ch. 13, or any other state or federal law, the data are private.

VII. Change in Classifications:

BLC shall change the classification of data in its possession if it is required to do so to comply

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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:

BLC has designated the school Director as the authority responsible for personnel data. If you have any questions, please contact them.

IX. Employee Authorization/Release Form:

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

Legal References: Legal References (the following are included for reference purposes only, may not reflect the most current relevant statutory citation, and should not be read to contravene or limit the school's obligations under any federal, state, or local law):

- 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. § 122A.20, Subd. 2 (Mandatory Reporting)
- 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)

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Consent to Release – Request from an Individual

An individual asks the government entity to release his/her private data to an outside entity or person. Because the entity 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]

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
[name of government entity]
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 _____