

Data Practices for Early Learning Scholarship Administrators

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What Is Data Practices?

The practices, procedures and laws that govern:

- How government agencies and contractors collect, create, maintain and share the data that they hold.
- How the rights of individual data subjects are protected.
- How members of the public can inspect and access government data.
- How we secure and manage data.

Minnesota Laws that Govern Data Practices and Government Records

- 1) Minnesota Government Data Practices Act (MGDPA),
 - Minnesota Statutes, Chapter 13;
- 2) Minnesota Official Records Act,
 - Minnesota Statutes 15.17; and
- 3) Minnesota Record Retention Laws,
 - Minnesota Statutes 138.163 and 138.17

Minnesota Government Data Practices Act (MGDPA)

- This law establishes the data practices requirements we must follow when we collect, manage and share records.
- Its primary purpose is to ensure public access to government records.
- It balances transparency with strong rights and protections for individual data subjects.

But I am not a Government Entity, Right?

- True, but Early Learning Scholarships is a government program.
- The data practices laws apply to organizations that perform work on behalf of a government entity (Minnesota Statutes 13.05, subdivision 11):
 - Data created, collected, received, stored, used or shared by a contractor is subject the MGDPA; and
 - The contractor must comply with the MGDPA's requirements as if it were a government entity.

What is Government Data?

Government data means all data:

- Collected
- Created
- Received
- Maintained
- Disseminated

By any government entity regardless of its physical form, storage media or conditions of use.

Presumption That Data is Public

- Under state law, all government data is public unless a specific exception set out in federal or state law makes the data private.
- Government entities, the public, and data subjects often believe the opposite and presume that most data is private.

Public Data Related to the Early Learning Services (ELS) Program Includes:

- All of the program administration data that does not relate to individual children and families, such as
 - Signed agreements with provider programs.
 - Other program-level correspondence with provider programs.
 - Programmatic and policy materials.
- Summary data – statistics – such as overall program funding amounts and counts of children participating.

Focusing on Private Data?

Private data is made by state or federal law not public but is accessible by the individual data subject.

Private data is subject to additional protections and requirements.

Laws that Apply to ELS Data

Minnesota Statutes, Section 13.46 (welfare data)

Minnesota Statutes, Section 13.32 (educational data)

Family Education Rights and Privacy Act

National School Lunch Act (free/reduced price lunch)

Head Start Act

Early Learning Services (ELS) Data Classified by Law as Private

All of the scholarship data that relates to individual children and parents is classified as private data.

- Application and supporting documents.
- Scholarship tracking information, such as expenditures and invoices.
- Early childhood screening information.
- Attendance information.

Data Subjects Have the Right to:

- Know if they are the subject of data, and what kind of data it is.
- Access, inspect and review records.
- Challenge the accuracy and completeness of data about them.
- Receive a Tennessee warning.
- Provide informed consent to share data.

We Also Have the Responsibility to:

- Limit collection of private and confidential data on individuals.
- Protect the private and confidential data we collect, maintain and share.
- Upon request, an individual must be informed:
 - Whether they are the subject of data you hold.
 - How the data is classified (public, private or confidential).

Upon request, an individual who is the subject of public or private data on individuals must be:

- Shown the data free of charge.
- Provided with copies of the data.
- Informed of the content and meaning of the data.

Rights of Data Subjects

Data Subject's Right to Challenge and Amend Data

- An individual can challenge the accuracy or completeness of data by notifying the maintaining entity of the nature of their disagreement in writing.

- Based on the challenge, the entity maintaining the data must either correct the data or notify the individual that they believe the data is correct.
- The determination may be appealed to an administrative law judge.

Providing the Tennessee Warning

When we collect private data we must inform the individual:

- Why the data is being collected.
- How the data will be used.
- Whether they can refuse or are legally required to provide the data being requested.
- What the consequences are of either providing or refusing to provide the data.
- Who else is authorized by law to receive the data?

Ensuring Valid Consent to Share or Use Data

The consent must:

- 1) Be in writing, signed and dated;
- 2) Specify the records that may be disclosed;
- 3) State the purpose of the disclosure; and
- 4) Identify the recipients or types of recipients of the disclosed records.
 - The consent document should use plain language.
 - The consent should be valid for not more than a year.
 - Individuals who give consent can also revoke it.

Collecting Data on Individuals

Collection, use and dissemination of data on individuals must be limited to:

- 1) What is necessary for administration and management of programs authorized or required by state or federal law. (13.05, subdivision 3)
- 2) The reasons stated to the individual at the time of collection. (13.05, subdivision 4)

Protecting Data on Individuals

Under the MGDPA, Minnesota Department of Education (MDE) and ELS administrators must:

- Ensure data is accurate, complete and current.

- Protect data with appropriate security safeguards.
- Only allow access to data on individuals to those whose work assignments reasonably require access, and only for those work purposes.
- Destroy data in a way that prevents access to content.
- If there is a possible breach of security of data, conduct an investigation and notify individuals of the breach.

Remedies for Violations of Data Practices Laws

- A data subject or a member of the public can:
 - 1) Submit a complaint to the Information Policy Analysis Division, Department of Administration.
 - 2) File for an administrative remedy with the State of Minnesota Office of Administrative Hearings.
 - 3) Bring an action for civil remedy in court if there are actual damages.
- Willful violation of the MGDPA can result in penalties for an employee, including discipline up to termination.

OGAN Requirements Related to Restricted Sharing and Using of Scholarship Data

ELS Administrators agreed to:

“Ensure compliance with data privacy practices as required by law and directed by MDE, including not using or sharing internally or externally student or program data for any purpose not directly related to the project described in this OGAN unless MDE provides prior specific written consent to use the data for another purpose.”

Private Data Can Only be Shared With:

- 1) The individual data subject, which includes the parent or guardian of a minor child.
- 2) Someone the data subject has given express permission to access the data.
- 3) Internal staff who need to see the data to manage the program.
- 4) Outside entities permitted to receive the data pursuant to a state or federal law.

What if the parents want to see their application or other materials related to their scholarship?

- Verify the requester’s identity to ensure they are in fact the parent of the Early Learning Scholarship applicant or participant.

- Follow best practices and have a staff person present with the parent while they review the file.
- If they want copies, ask your MDE Early Learning Scholarship staff contact for guidance.

What if the parent gives someone else permission to see their information?

- A parent can give written permission for someone else to see their private data.
- If you get a request like this, ask your MDE Early Learning Scholarship staff contact for guidance.

What if I need to share private applicant or participant information with someone else inside my own organization?

- State law only allows individuals whose work requires use of private data to access it.
- Limit the number of internal staff who have access to scholarship data.
- Do not use any information from the ELS program for another internal purpose.
- Be careful about ‘water cooler’ talk.

What if I need to share private applicant or participant information with someone outside of my organization?

- Only share individual student or family information with:
- MDE Early Learning Scholarship Administration (ELSA) Database or Early Learning Scholarship staff members.
- The child care, head start or school district early learning program serving the child.
- The evaluator with whom MDE contracts to evaluate the overall program (authorized representative).
- The school district of residence to discuss assignment of the statewide student identifier number (SSID) or confirm early childhood screening completion.
- Another ELS Administrator if a parent moves to that region or to verify student information in the case of potentially duplicate applicant information.

Sharing Public Data

Within Your Organization

- You can share program administration information with others in your organization if you provide summary data.

In Response to Data Requests

- Members of the public have a right to access public government data, such as:
- Public program administration materials.
- Summary data about the program.
- If you receive a data request from a member of the public, including a legislator or a member of the media:
 - Ask your MDE Early Learning Scholarships staff contact for guidance.
 - Copy MDE when you respond to the requester.

Defining and Creating Summary Data

- Summary data means statistical reports or aggregate counts that are based on individual-level data but do not reveal any information about the individuals.
- Summary data is about more than just making sure an individual is not directly identified.
- We also want to make sure we don't reveal information or characteristics that could be used to uniquely identify an individual.
- Inadvertently provide private data about a group of children.

Examples of ELS Program Summary Data:

- Statistics about program funding amounts.
- Counts of the number of applicants and scholarship recipients your organization has processed.
- Counts of the number of scholarship recipients attending a particular program.
- MDE public reports only include information if the group count is 10 or higher.

Security within Your Organization

- Maintain paper files securely:
 - Store in locked cabinets or rooms and tracking access to the keys.
 - Don't leave out in the open on a desk if you walk away for a period of time.
- Keep within the Early Learning Scholarships program area even when in use.
 - Use secure bins and shredding facilities to destroy drafts, copies, and data that are no longer needed.
- Maintain electronic documents and databases securely:

- Use password or approval systems to protect documents, databases, and networks.
- Don't leave documents or databases open on an unprotected computer if you step away.

Staff Access and Use:

- Limit staff access to minimum number necessary.
- Only staff who must access the data for their work have access.
- Staff with work assignment responsibilities only use the data for ELS program purposes.
- Staff are instructed about privacy and data practices.
- Staff are trained to use security safeguards to protect the privacy and integrity of data.

Breach of Security

- If you suspect a breach of security, immediately notify your MDE Early Learning Scholarships staff contact.
- MDE will determine whether an investigation is needed and ensure compliance with breach of security statutes.
- Breach includes:
 - An outsider is given or accesses private data.
 - A staff person without work need is given or accesses private data.
 - A staff person with work need accesses the data for a reason other than work related to the ELS program.

Secure Communications

- When sharing or talking about applicant or participant data, take precautions to protect the data's privacy.
- All methods of data sharing have security risks to address; no perfect method.
- Whatever method you use, verify that data goes to the intended recipient, and that the intended recipient is authorized to see the data.
- If you choose email to share data, use a secure email method ensuring the content of the email cannot be viewed by someone other than the intended recipient.

Security of the ELSA Database

- When you input or check data in the ELSA Database, only look at information about participants in your program.
- If you need to verify an applicant's identity because one or more possible duplicate participants are found in the database, do not retain, download or talk about any information about the other participants after you complete verification.
- Don't share passwords or usernames.
- Don't access the database on behalf of others.

Minnesota Official Records Act

- Reflects a concern for accountability.
- Requires government entities to make and preserve records to document official activities.
- Official records represent the official work, business, and transactions of government.
- These records must be passed on to successors.

Records Retention Laws

- Require government entities to maintain official records and to follow a process when disposing of those records.
- Government entities must have and follow records retention schedules when managing and destroying records.
- Schedules are a plan for managing records—how long to keep them and authority to destroy them over time.
- By law, government entities cannot get rid of records unless they follow an adopted records retention schedule or secure specific approval.

OGAN Requires Regional Administrators (RAs) to Maintain Records

- Maintain complete records, including approved and not approved applications, approval notification documentation, and expenditures charged against each scholarship.
- Provide records or reports to MDE via the ELSA database or other means.
- All records related to the State Early Learning Scholarships program are the intellectual property of MDE.

MDE Needs ELS Administrators to Maintain Data on our Behalf

- Maintain program administration records at least seven years and then upon guidance from MDE.
- Return all data to MDE if you no longer participate as an ELS Administrator.
- Maintain applications and participant data for duration of the scholarship and then upon guidance from MDE.
- Maintain participant files even if a family leaves the program before aging out.

Questions?

Ask MDE's Data Practices Contact:

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