STATE OF MINNESOTA
DEPARTMENT OF ADMINISTRATION

FINDINGS OF FACT AND CONCLUSIONS

REGARDING: Application for Temporary Classification of data on individuals pursuant to Minnesota Statutes §13.06, subdivision 3, submitted by:

Hennepin County

The Commissioner of Administration has examined the above application and makes the following:

FINDINGS OF FACT

1. The completed application was filed pursuant to Minnesota Statutes §13.06, and was received by the Department of Administration on September 21, 2020.

2. The application was filed on forms provided by the Department of Administration.

3. The application requested the classification of private for data collected, created and maintained by the Education Support Services program (“ESS”) that identify program participants, their family members, and guardians.

4. The applicant partially met the first criteria set forth in Minnesota Statutes §13.06, subdivision 3, by clearly establishing that no statute currently exists which either allows or forbids classification as not public for a portion of the data.

5. The applicant has met the additional criteria set forth in Minnesota Statutes §13.06, subdivision 3, for certain data, by clearly establishing one or more of the following:

   a. That data similar to that for which the temporary classification is sought has been treated as private by other government entities.

The applicant has met the criteria indicated above in the following manner:

The applicant argued that the following data are similar to the data for which the temporary classification is sought are currently classified as not public:

   a. Child protection and child welfare services data are classified as private welfare data under Minnesota Statutes §13.46, subd. 2(a) and children’s mental health data are classified as private mental health data under Minnesota Statutes §13.46, subd. 7.
The function of the entities and their purposes for collecting the data in the three programs match the function and purposes of ESS which is to ensure the health, safety and best interests of the child.

b. Juvenile probation data are classified as private under Minnesota Statutes §260B.171, subds. 1 and 4.

A function of juvenile probation and the purpose for the data is consistent with a function of ESS and the purpose for which ESS would use the data which is to reduce juvenile delinquency and promote safety and best interests of the child.

c. Educational data provided by the schools is protected under the Family Educational Rights and Privacy Act (20 U.S.C. §1232g; 34 CFR Part 99) and Minnesota Statutes §13.32.

The function of the schools and the purpose for the data is consistent with the primary function of ESS and purpose for which ESS would use the data which is to promote the optimal education achievement and best interests of the child.

6. The applicant partially met the additional criteria in Minnesota Statutes §13.06, subdivision 3, for certain data, by clearly establishing that a compelling need exists for immediate temporary classification, which if not granted could adversely affect the health, safety, or welfare of the public, or the data subject's well-being or reputation, for a portion of the data listed in the application.

The applicant met the criteria indicated above in the following manner:

Data collected, created and maintained by the ESS program will provide support and resources to Hennepin County involved youth (meaning youth already receiving some type of service from Hennepin County) negatively impacted by the COVID-19 pandemic to support their education stability, health and well-being.

The applicant argued that it is likely that if the data about program participants and their family members are not classified as private, youth, parents or caregivers will choose to decline services, limiting the county’s ability to provide supports to some of the county’s most vulnerable residents.

The applicant argued if the data are not classified as private, the program would be compelled to release data that, if maintained in any of the referring departments, would be considered private data. Just as if the data were released by the referring department, the public’s access to the data could adversely affect the data subject’s well-being or reputation.

7. The Commissioner did not receive any comments regarding the application.
Based upon the foregoing findings of fact, the Commissioner makes the following:

CONCLUSIONS

1. Based upon the application and the statutory requirements, the Commissioner concludes that the applicant has met the criteria set forth at Minnesota Statutes §13.06, subdivision 3, for the data described in item 2 below.

2. For the reasons set forth above, the following types of data are approved by the Commissioner as private:

Data collected, created, or maintained by the ESS Program that identify a program participant, their family members, and guardians.

The Commissioner disapproves as private or nonpublic data the following data. The data not covered by the temporary classification include:

Data received or collected by the ESS program from other government entities or government programs that are classified as private by other statutes and submitted to ESS with the consent of the data subjects or statutory authority.

3. With regard to the data not covered under the temporary classification, the applicant did not fully meet the requirement in Minnesota Statutes §13.06, that no statute currently exists that allows or forbids the classification as not public.

As required under Minnesota Statutes §13.06 subdivision 5, it is the Commissioner’s belief that the data not covered by the temporary classification are currently classified under law as private data that “travel” to the ESS program via consent or statutory authority and retain a private classification pursuant to Minnesota Statutes, §13.03, subdivision 4(c) and 4(e), when maintained by ESS:

a. Child Protection and Child Welfare Services data are private under Minnesota Statutes §13.46, subd. 2(a).
b. Children’s Mental Health data are private under Minnesota Statutes §13.46, subd. 7.
c. Juvenile Probation data are private under Minnesota Statutes §260B.171, subds. 1 and 4.

By:             Date:   11.2.20

Lenora Madigan
Deputy Commissioner