

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

Haishan Yang,
Complainant,

vs.

ORDER OF DISMISSAL

University of Minnesota,
Respondent.

This matter is pending before Administrative Law Judge Megan J. McKenzie upon a Data Practices Complaint (Complaint) filed by Haishan Yang (Complainant) on March 17, 2025. The record closed on April 29, 2025, upon the filing of a response from the University of Minnesota (University).¹

Complainant appeared on his own behalf without legal counsel. Dan Herber, Assistant Attorney General, appeared on behalf of the University.

Based on the submissions of the parties and the record, and for the reasons explained in the accompanying Memorandum, which is incorporated herein, the Administrative Law Judge makes the following:

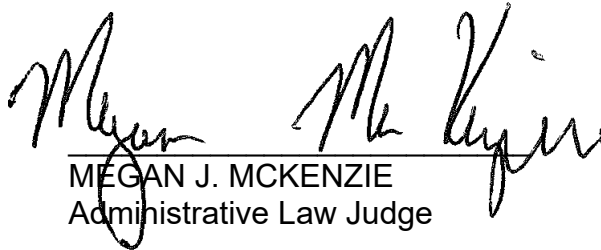
ORDER

1. The Complaint is **DISMISSED**.
2. Because the costs of the Office of Administrative Hearings in connection with this matter exceeded the amount of the filing fee, Complainant is not entitled to a refund of the filing fee under Minn. Stat. § 13.085, subd. 6(d) (2024).

¹ The Administrative Law Judge extended the deadline for the University's response pursuant to Minn. Stat. § 13.085, subd. 2(f) (2024). See Order Extending Deadline for Response (Apr. 2, 2025).

3. Because the Complaint has not been shown to have been frivolous in nature or to have been brought for the purposes of harassment, the University is not entitled to recover reasonable attorneys' fees under Minn. Stat. § 13.085, subd. 6(e) (2024).

Dated: May 15, 2025


MEGAN J. MCKENZIE
Administrative Law Judge

NOTICE OF RECONSIDERATION AND APPEAL RIGHTS

Minn. Stat. § 13.085, subd. 3 (2024), provides that the Complainant has the right to seek reconsideration of this decision on the record by the Chief Administrative Law Judge. A petition for reconsideration must be filed with the Office of Administrative Hearings no later than five business days after the Complainant receives notice that the Complaint has been dismissed for failure to present sufficient facts to believe that a violation of Minn. Stat. §§ 13.01-.99 (2024) has occurred. If the Chief Administrative Law Judge determines that the assigned Administrative Law Judge made a clear material error and grants the petition, the Chief Administrative Law Judge will schedule the complaint for a hearing under Minn. Stat. § 13.085, subd. 4.

If the Complainant does not seek reconsideration, or if the Chief Administrative Law Judge denies a petition for reconsideration, then this order is the final decision in this matter under Minn. Stat. § 13.085, subd. 5(d), and a party aggrieved by this decision may seek judicial review as provided in Minn. Stat. §§ 14.63 to 14.69 (2024).

MEMORANDUM

I. Factual Background

Complainant was a Ph.D. student at the University.² On August 5, 2024, Complainant took a written preliminary examination as part of his Ph.D. program.³ The examination instructions barred Complainant from using “any sort of Artificial Intelligence tools, such as ChatGPT, in any part of this exam.”⁴

² Complaint at 5.

³ Response of Regents of the University of Minnesota (Apr. 29, 2025) (Response) at 4; Complaint, Exhibit (Ex.) 16.

⁴ Complaint, Ex. 10.

After the exam, the University accused Complainant of using artificial intelligence (AI) tools during the exam. The University initiated disciplinary proceedings against Complainant, resulting in a student conduct hearing on November 15, 2024.⁵ The hearing panel, by a five to zero vote, found that Complainant violated the student conduct code by using AI, and the panel expelled Complainant from the University.⁶ On December 9, 2024, Complainant appealed the panel's decision to the Office of the Provost.⁷ On January 7, 2025, Vice Provost Scott Lanyon upheld Complainant's expulsion.⁸

Complainant then filed several lawsuits against the University and its employees. On December 26, 2024, Complainant filed a suit in Hennepin County District Court against one of the professors who participated in the student conduct hearing.⁹ On January 8, 2025, Complainant filed a federal lawsuit against several employees of the University involved in the student conduct hearing.¹⁰ On March 3, 2025, Complainant filed a petition for writ of certiorari in the Minnesota Court of Appeals regarding the University's conduct decision.¹¹ On March 31, 2025, Complainant filed an additional Hennepin County District court case against the University itself, which alleges violations of the Minnesota Government Data Practices Act (MGDPA).¹²

In addition to those actions, Complainant filed the Complaint with this tribunal. Complainant maintains that during the disciplinary process, staff members of the University unlawfully disclosed private data about him, without his consent, to: (1) faculty members who were not permitted to receive that data; (2) an external AI detection tool; and (3) the AI tool called ChatGPT.¹³ Complainant asserts that these disclosures violate Minn. Stat. §§ 13.04, subd. 2, 13.05, subd. 5(a)(1), and 13.32, subd. 3.¹⁴ Complainant also alleges that the University failed to ensure the accuracy and integrity of his student disciplinary records by allowing falsified evidence and false statements into the student conduct hearing record.¹⁵ Complainant asserts this conduct violates Minn. Stat. §§ 13.05, subds. 4, 5(a)(1), and 5(a)(2).¹⁶ Complainant requests that the Administrative Law Judge impose fines on the University, issue an order requiring the University to correct Complainant's record, and refer the matter to the Attorney General's Office for criminal charges.¹⁷

⁵ Complaint at 5; Herber Declaration (Decl.), Ex. B; Complaint, Ex. 16.

⁶ Response at 6; Complaint, Ex. 16; Herber, Decl. Ex. B.

⁷ Complaint, Ex. 16.

⁸ *Id.*

⁹ *Haishan Yang v. Hannah Neprash*, No. 27-CV-24-19633 (4th Dist. Ct.).

¹⁰ *Yang v. Neprash et al.*, No. 25-CV-00089 (D. Minn.).

¹¹ *Matter of the University of Minnesota (Respondent) v. Haishan Yang (Relator)*, No. A25-0342 (Minn. App.).

¹² Response at 2-3; See Herber Decl. Ex. A, *Yang v. The Regents of the University of Minnesota*, No. 27-CV-25-5506 (4th Dist. Ct.).

¹³ Complaint at 5.

¹⁴ *Id.* Complainant cites Minn. Stat. § 13.05, subd. 5(1) and 5(2) in his complaint. The proper citation for the statute sections Complainant refers to is Minn. Stat. § 13.05, subd. 5(a)(1) and (2).

¹⁵ Complaint at 5-6.

¹⁶ *Id.*

¹⁷ *Id.* at 22-23.

In response, the University argues that the matter must be dismissed because the Administrative Law Judge lacks jurisdiction over this dispute, Complainant has not met his burden to present sufficient facts showing that the University engaged in MGDPA violations, and the law otherwise does not permit this action.¹⁸

II. Probable Cause Standard

This matter is presently before the Administrative Law Judge for a probable cause review pursuant to Minn. Stat. § 13.085, subd. 3. The statute requires that an administrative law judge conduct a preliminary probable cause review before further proceedings occur.¹⁹ If the administrative law judge determines that the complaint and any timely response do not present sufficient facts to believe that a violation occurred, the complaint must be dismissed.²⁰ However, if the administrative law judge determines that sufficient facts exist to believe that a governmental entity violated the MGDPA, the administrative law judge must schedule further proceedings.²¹

The purpose of a probable cause determination is to ascertain whether, given the facts submitted by the parties, it is fair and reasonable to hear the matter on the merits.²² An administrative law judge's function in a probable cause determination is to assess whether the initial facts establish a reasonable belief that a governmental entity committed a data practices violation.²³

III. Analysis

A. This Tribunal Cannot Overturn University Discipline

At base, Complainant wishes to overturn the University's disciplinary decision. Complainant takes issue with the integrity of the discipline process, the evidence admitted at the discipline hearing, and the hearing's outcome.²⁴ This tribunal does not have jurisdiction to review the University's disciplinary process, and a complaint under the MGDPA is not a proper vehicle to obtain reversal of the University's disciplinary decision – these allegations must be litigated elsewhere.²⁵

B. Accuracy and Completeness Challenges Cannot be Brought as an Action to Compel Compliance

¹⁸ Response at 1.

¹⁹ Minn. Stat. § 13.085, subd. 3(a).

²⁰ *Id.*, subd. 3(b)(2).

²¹ *Id.*, subd. 3(b)(1).

²² *State v. Florence*, 239 N.W.2d 892, 902 (Minn. 1976).

²³ Minn. Stat. § 13.085, subd. 3.

²⁴ Complaint.

²⁵ See *Brenny v. Bd. of Regents of Univ. of Minn.*, 813 N.W.2d 417, 420-21 (Minn. App. 2012).

Complainant asserts that the University failed to ensure the accuracy of his record in violation of Minn. Stat. § 13.05, subds. 4, 5(a)(1), and 5(a)(2). Complainant alleges that the University allowed false statements and evidence to be reviewed in the disciplinary hearing and, therefore, have been placed in his student record. Complainant states that he seeks relief to “correct [his] disciplinary record.”²⁶ The University argues that Complainant’s claims alleging that data is not accurate or complete must be dismissed as outside the scope of this proceeding. The University is correct.

Minn. Stat. § 13.04, subd. 4, allows an individual to “contest the accuracy or completeness of public or private data about themselves.”²⁷ A person seeking to contest the accuracy and completeness of government data must notify the responsible authority of that governmental entity, and then pursue an appeal of any determination as a contested case under to the Administrative Procedure Act.²⁸ An appeal as to accuracy and completeness of data is initiated by the Commissioner of the Minnesota Department of Administration.²⁹

An accuracy and completeness challenge cannot be brought as an action to compel compliance under Minn. Stat. § 13.085. That statute expressly states that: “An action to compel compliance does not include procedures pursuant to section 13.04, subdivision 4 or 4a.” This tribunal is unable to adjudicate Complainant’s claims as to the accuracy of data held by the University in this action. Therefore, these claims are dismissed.

C. An Action to Compel Compliance is Not an Action for Damages

The Complaint is not entirely clear as to the relief Complainant seeks, but it appears that Complainant is asserting a claim for damages related to the alleged unlawful disclosure of data that has already occurred. The expedited data practices complaint process established in Minn. Stat. § 13.085, provides that complaints alleging a violation of the MGDPA “for which an order to compel compliance is requested” may be filed with the Office of Administrative Hearings. Actions to compel compliance do not include actions for damages based on the alleged wrongful release of private data.³⁰ Actions seeking damages for an MGDPA violation must be brought in the district court.³¹ Complainant’s allegations involving the dissemination of his private data are not matters “for which an order to compel compliance” may be requested. Therefore, to the extent Complaint asserts claims for damages, those claims are dismissed.

D. Complainant Has Not Alleged an Actionable MGDPA Violation

²⁶ Complaint at 22.

²⁷ Minn. Stat. § 13.04, subd. 4.

²⁸ *Id.*

²⁹ *Id.*

³⁰ See Minn. Stat. § 13.08, subds. 1, 4 (providing that an action for damages may be brought in the district court, while an action to compel compliance may be brought either before the district court or before this tribunal).

³¹ *Id.*

The Complaint asserts that the University unlawfully disclosed Complainant's private, educational data in violation of Minn. Stat. §§ 13.04, subd. 2, and 13.32, subd. 3.³² Complainant requests the imposition of fines against the University "[g]iven the systematic violations and harm they have caused me."³³ Even if Complainant's allegations regarding disclosure are liberally construed as a claim that the University failed to adopt adequate MGDPA policies and procedures,³⁴ Complainant has not established that probable cause supports his claims that the University violated the MGDPA.

Complainant alleges that the University improperly disclosed his data to "faculty members."³⁵ Disclosure to University faculty is not disclosure to a third party. The MGDPA provides: "Access to private data shall be available . . . to . . . individuals within the entity whose work assignments reasonably require access."³⁶ The "entity" is the entire "governmental agency subject to the requirements of the [MGDPA]."³⁷ Thus, the entirety of the University and all its component parts is the "entity" as that term is used in the MGDPA.

Further, under Minn. Stat. § 13.32, subd. 3(e), disclosure of educational data is permitted under the MGDPA if allowed under 20 U.S.C. § 1232g(b), the federal Family Educational Rights and Privacy Act (FERPA). FERPA authorizes school officials to determine who qualifies for access to a student's educational records.³⁸ The University's Board of Regents has adopted a policy allowing disclosure of private student education records to, among others, "school officials with a legitimate educational interest in the information."³⁹ The University's policy provides "[l]egitimate educational interest shall mean a need to review and use student education records for the purpose of performing an appropriate University research, educational, or administrative function."⁴⁰ According to policy, university faculty and staff have a duty to ensure the originality of work; report

³² Complaint at 1.

³³ *Id.* at 22.

³⁴ See Minn. Stat. § 13.05, subd. 5(a)(2) (requiring a responsible authority to "establish appropriate security safeguards for all records containing data on individuals, including procedures for ensuring that data that are not public are only accessible to persons whose work assignment reasonably requires access to the data, and is only being accessed by those persons for purposes described in the procedure.").

³⁵ Complaint at 5.

³⁶ Minn. R. 1205.0400, subp. 26 (2023); see also Minn. Dep't Admin Advisory Opn. 04-046, 2004 WL 7345871, at *2 (Jul. 12, 2004) ("Another exception is that private educational data can be released to individuals within the entity whose work assignments reasonably require access.").

³⁷ Minn. R. 1205.0200, subp. 6 (2023).

³⁸ 20 U.S.C. § 1232g(b)(1)(A); *Larson ex rel. Larson v. Indep. Sch. Dist. No. 361*, Civ. No. 02-3611(DWF/RLE), 2004 WL 432218, at *7 (D. Minn. Mar. 2, 2004) (emphasis added); see also *Minn. Dep't Admin Advisory Opn.* 05-022, 2005 WL 817877, at *4 (June 16, 2005), available at <https://mn.gov/admin/data-practices/opinions/library/opinionslibrary.jsp?id=36-267861> ("The specifics of who gets access to what data is up to the [educational institution] to determine as the [educational institution] has authority, as well as an obligation, to establish policies about which officials/employees have legitimate educational interests to private data.").

³⁹ BOR SER Policy Section IV, subd. 3, available at http://regents.umn.edu/sites/regents.umn.edu/files/policies/Student_Education_Records.pdf.

⁴⁰ *Id.* Section III, Subd. 2.

suspect violations to supervisors or other University officials; and ensure that reports of violations within their area of responsibility are properly resolved.⁴¹

Complainant also alleges that the University improperly disclosed his data to ChatGPT and an AI detection tool. However, the majority of Complainant's allegations and exhibits concern the questions asked on the exam, not Complainant's answers.⁴² Questions developed by University professors are not data collected from or regarding Complainant.

Additionally, to the extent the University submitted Complainant's answers to ChatGPT, Complainant has not shown this act was prohibited by the MGDPA or that the data at issue was not public data. As an initial matter, Complainant does not cite any law or rule prohibiting the University from using an AI software tool to investigate academic dishonesty. Second, under the MGDPA "data on individuals" means data in which any individual is or can be identified as the subject of that data.⁴³ Data on individuals is further defined as data that "identifies an individual in itself, or . . . in connection with other data elements to uniquely identify an individual."⁴⁴ The answers to the exam questions that are shown in Complainant's exhibits do not provide any identifying information about Complainant.⁴⁵ Furthermore, the University found through its disciplinary process that a preponderance of the evidence showed the answers Complainant submitted in response to the exam were generated by AI, not authored by Complainant. This tribunal cannot overturn that determination in this proceeding.

The University has met its obligation under the MGDPA to adopt policies regarding the maintenance and disclosure of student records. Complainant has not established probable cause to believe that these policies are inadequate or were not followed. Complainant also has not shown that probable cause exists to believe that the University violated the MGDPA in connection with its investigation into Complainant's academic conduct. Accordingly, these claims must be dismissed.

IV. Conclusion

Complainant has not met his burden to present sufficient facts to show that the University violated the MGDPA. Therefore, the Complaint is **DISMISSED** in its entirety.

M. J. M.

⁴¹ Board of Regents Policy: Code of Conduct, at Section III., subds. 1, 3, 5, available at https://regents.umn.edu/sites/regents.umn.edu/files/2024-05/policy_code_of_conduct.pdf.

⁴² See e.g., Complaint, Ex. 10.

⁴³ Minn. Stat. § 13.02 subd. 5.

⁴⁴ Minn. R. 1205.0200, subp. 4 (2023).

⁴⁵ Complaint, Ex. 10.