

RICHFIELD PUBLIC SCHOOLS

216 - PUBLIC COMMENT

**PARTICIPATION IN SCHOOL BOARD MEETINGS/COMPLAINTS ABOUT PERSONS
AT SCHOOL BOARD MEETINGS AND DATA PRIVACY CONSIDERATIONS**

I. PURPOSE

- A. The school board recognizes the value of participation by the public in deliberations and decisions on school district matters. At the same time, the school board recognizes the need to conduct orderly and efficient proceedings while maintaining opportunity for expression of all participants' respective views.
- B. The purpose of this policy is to provide procedures that create opportunity for the public to suggest agenda items and to participate in open and orderly public comment while protecting the due process and privacy rights of individuals under the law.

II. GENERAL STATEMENT OF POLICY

- A. The policy of the school board is to encourage participation in subjects related to the management of the school district at school board meetings. The school board may adopt reasonable time, place, and manner restrictions on public participation within board meetings, but encourage participation with individual board members outside of the formal school board meeting time in order to facilitate free discussion by all interested parties.
- B. The school board shall, as a matter of policy and law, protect the legal rights to privacy and due process of employees and students.

III. DEFINITIONS

- A. "Personnel data" means government data on individuals maintained because the individual is or was an employee or applicant for employment. For purposes of this policy, "employee" includes a volunteer or an independent contractor.
- B. Personnel data on current and former employees that is "public" includes:

Name; employee identification number, which must not be the employee's social security number; actual gross salary; salary range; terms and conditions of employment relationship; contract fees; actual gross pension; the value and nature of employer paid fringe benefits; the basis for and the amount of any added remuneration, including expense reimbursement, in addition to salary; bargaining unit; job title; job description; education and

1 training background; previous work experience; date of first and last
2 employment; the existence and status of any complaints or charges against
3 the employee, regardless of whether the complaint or charge resulted in a
4 disciplinary action; the final disposition of any disciplinary action as defined in
5 Minn. Stat. § 13.43, Subd. 2(b), together with the specific reasons for the
6 action and data documenting the basis of the action, excluding data that
7 would identify confidential sources who are employees of the public body; the
8 complete terms of any agreement settling any dispute arising out of the
9 employment relationship, including a buyout agreement as defined in Minn.
10 Stat. § 123B.143, Subd. 2, except that the agreement must include specific
11 reasons for the agreement if it involves the payment of more than \$10,000 of
12 public money; work location; work telephone number; badge number; work-
13 related continuing education; honors and awards received; and payroll time
14 sheets or other comparable data that are only used to account for
15 employee's work time for payroll purposes, except to the extent that release
16 of time sheet data would reveal the employee's reasons for the use of sick or
17 other medical leave or other not public data.

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19 C. Personnel data on current and former applicants for employment that is
20 "public" includes:

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22 Veteran status; relevant test scores; rank on eligible list; job history;
23 education and training; and work availability. Names of applicants shall be
24 private data except when certified as eligible for appointment to a vacancy or
25 when applicants are considered by the appointing authority to be finalists for
26 a position in public employment. For purposes of this subdivision, "finalist"
27 means an individual who is selected to be interviewed by the appointing
28 authority prior to selection.

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30 D. "Educational data" means data maintained by the school district which relates
31 to a student.

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33 E. "Student" means an individual currently or formerly enrolled or registered in
34 the school district, or applicants for enrollment, or individuals who receive
35 shared time services.

36
37 F. Data about applicants for appointments to a public body, including a school
38 board, collected by the school district as a result of the applicant's application
39 for appointment to the public body are private data on individuals, except that
40 the following are public: name; city of residence, except where the
41 appointment has a residency requirement that requires the entire address to
42 be public; education and training; employment history; volunteer work;
43 awards and honors; prior government service; any data required to be
44 provided or that is voluntarily provided in an application to a multimember
45 agency pursuant to Minn. Stat. § 15.0597; and veteran status. Once an
46 individual has been appointed to a public body, the following additional items
47 of data are public: residential address; either a telephone number or
48 electronic mail address where the appointee can be reached, or both at the
49 request of the appointee; the first and last dates of service on the public
50 body; the existence and status of any complaints or charges against an

1 appointee; and, upon completion of an investigation of a complaint or charge
2 against an appointee, the final investigative report unless access to the data
3 would jeopardize an active investigation. Any electronic mail address or
4 telephone number provided by a public body for use by an appointee shall be
5 public. An appointee may use an electronic mail address or telephone
6 number provided by the public body as the designated electronic mail
7 address or telephone number at which the appointee can be reached.
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9 **IV. RIGHTS TO PRIVACY**

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11 A. School district employees have a legal right to privacy related to matters
12 which may come before the school board, including, but not limited to, the
13 following:

- 14
15 1. right to a private hearing for teachers, pursuant to Minn. Stat. § 122A.40,
16 Subd. 14 (Teachers Discharge Hearing);
- 17
18 2. right to privacy of personnel data as provided by Minn. Stat. § 13.43
19 (Personnel Data);
- 20
21 3. right to consideration by the school board of certain data treated as not
22 public as provided in Minn. Stat. § 13D.05 (Not Public Data);
- 23
24 4. right to a private hearing for licensed or nonlicensed head varsity coaches
25 to discuss reasons for nonrenewal of a coaching contract pursuant to
26 Minn. Stat. § 122A.33, Subd. 3.

27
28 B. School district students have a legal right to privacy related to matters which
29 may come before the school board, including, but not limited to, the following:

- 30
31 1. right to a private hearing, Minn. Stat. § 121A.47, Subd. 5 (Student
32 Dismissal Hearing);
- 33
34 2. right to privacy of educational data, Minn. Stat. § 13.32 (Educational
35 Data); 20 U.S.C. § 1232g (FERPA);
- 36
37 3. right to privacy of complaints as provided by child abuse reporting and
38 discrimination laws, Minn. Stat. § 626.556 (Reporting of Maltreatment of
39 Minors) and Minn. Stat. Ch. 363A (Minnesota Human Rights Act).

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41 **V. THE PUBLIC'S OPPORTUNITY TO BE HEARD**

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43 The school board will strive to give people related to the school district an
44 opportunity to be heard and to have complaints considered and evaluated, within
45 the limits of the law and this policy and subject to reasonable time, place, and
46 manner restrictions. Among the rights available to the public is the right to
47 access public data as provided by Minn. Stat. § 13.43, Subd. 2 (Public Data).
48 There will be two mechanisms to participate in open meetings: 1. Requesting
49 formal agenda items for board member consideration and discussion and; 2.
50 Making public comment during a regular board meeting. Public comment will

1 occur once monthly on the second regularly scheduled meeting of the month. In
2 a month with only one meeting, public comment will occur at the lone meeting.
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5 **VI. PROCEDURES**
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7 **A. Requesting Formal Agenda Items**
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- 9 1. People who wish to have a subject discussed as part of the agenda at a
10 public school board meeting must notify the superintendent's office and
11 send the request one week in advance of a school board meeting to the
12 school board secretary. The person should provide his or her name,
13 address, the name of group represented (if any), and the subject to be
14 covered or the issue to be addressed. The request will be considered for
15 discussion by the school board chair and superintendent, and brought to
16 the board for consideration as needed. This formal process is intended
17 for items requiring greater scrutiny and discussion from board members.
18 Advance notice is required to allow for administrative staff to gather
19 necessary supporting documents and information and to allow for
20 adequate notice to the general public of items that will be brought before
21 the board for discussion.
22
23 2. The school board retains the discretion to limit board discussion of any
24 agenda item to a reasonable period of time as determined by the school
25 board.
26
27 3. Matters proposed for placement on the agenda which may involve data
28 privacy concerns, which may involve preliminary allegations, or which may
29 be potentially libelous or slanderous in nature shall not be considered in
30 public, but shall be processed as determined by the school board in
31 accordance with governing law.
32
33 4. The school board chair shall promptly rule out of order any discussion or
34 agenda item by any person, including school board members, that would
35 violate the provisions of state or federal law, this policy or the statutory
36 rights of privacy of an individual.
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38 **B. Open Public Comment**
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40 The school board shall normally provide a specified period of time when
41 citizens may address the school board on any topic, subject to the limitations
42 of this policy. The school board reserves the right to allocate a specific period
43 of time for this purpose and limit time for speakers accordingly.
44

45 The school board may decide to hold certain types of public meetings where
46 the public will not be invited to address the school board. Possible examples
47 are work sessions and board retreats. The public will still be entitled to notice
48 of these meetings and will be allowed to attend these meetings, but the public
49 will not be allotted time during the meeting to address the board.
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- 1 1. People who wish to address the school board on a particular agenda item
2 should identify the subject and identify agenda item(s) to which their
3 comments pertain.
4
- 5 2. The school board chair will recognize one speaker at a time, and will rule
6 out of order other speakers who are not recognized. Only those speakers
7 recognized by the chair will be allowed to speak. Each speaker will be
8 given up to three minutes, with time extended up to six minutes if
9 translation is necessary. Comments by others are out of order. Individuals
10 who interfere with or interrupt speakers, the school board, or the
11 proceedings may be directed to leave. These comments will occur during
12 the public comment section of the board agenda.
13
- 14 3. Personal attacks by anyone addressing the school board are
15 unacceptable. Persistence in such remarks by an individual shall
16 terminate that person's privilege to address the school board.
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- 18 4. Depending upon the number of persons in attendance seeking to be
19 heard, the school board reserves the right to impose such other limitations
20 and restrictions as necessary in order to provide an orderly, efficient, and
21 fair opportunity for those present to be heard.
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23 C. Informal Complaints

- 24
- 25 1. Routine complaints about a teacher or other employee should first be
26 directed to that teacher or employee or to the employee's immediate
27 supervisor.
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- 29 2. If the complaint is against an employee relating to child abuse,
30 discrimination, racial, religious, or sexual harassment, or other activities
31 involving an intimidating atmosphere, the complaint should be directed to
32 the employee's supervisor or other official as designated in the school
33 district policy governing that kind of complaint. In the absence of a
34 designated person, the matter should be referred to the superintendent.
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- 36 3. Unresolved complaints from Paragraph 1 of this section or problems
37 concerning the school district should be directed to the superintendent's
38 office.
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- 40 4. Complaints which are unresolved at the superintendent's level may only
41 be brought before the school board by notifying the school board in
42 writing.
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- 44 5. Personal attacks by anyone addressing the school board are
45 unacceptable. Persistence in such remarks by an individual shall
46 terminate that person's privilege to address the school board.
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3 **VII. PENALTIES FOR VIOLATION OF DATA PRIVACY**
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- 5 A. The school district is liable for damages, costs and attorneys' fees, and, in
6 the event of a willful violation, punitive damages for violation of state data
7 privacy laws. (Minn. Stat. § 13.08, Subd. 1)
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9 B. A person who willfully violates data privacy or whose conduct constitutes the
10 knowing unauthorized acquisition of not public data is guilty of a
11 misdemeanor. (Minn. Stat. § 13.09)
12
13 C. In the case of an employee, willful violation of the Minnesota data practices
14 law, Chapter 13, and any rules adopted thereunder, including any action
15 subject to a criminal penalty, constitutes just cause for suspension without
16 pay or dismissal. (Minn. Stat. § 13.09)
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19 **Legal References:** Minn. Stat. Ch. 13 (Minnesota Government Data Practices
20 Act)
21 Minn. Stat. § 13.43 (Personnel Data)
22 Minn. Stat. § 13.601, Subd. 3 (Applicants for Appointment)
23 Minn. Stat. § 13D.05 (Open Meeting Law)
24 Minn. Stat. § 121A.47, Subd. 5 (Student Dismissal Hearing)
25 Minn. Stat. § 122A.33, Subd. 3 (Coaches; Opportunity to
26 Respond)
27 Minn. Stat. § 122A.40, Subd. 14 (Teacher Discharge Hearing)
28 Minn. Stat. § 122A.44 (Contracting with Teachers)
29 Minn. Stat. § 123B.02, Subd. 14 (Employees; Contracts for
30 Services)
31 Minn. Stat. § 123B.143, Subd. 2 (Disclose Past Buyouts or
32 Contract is Void)
33 Minn. Stat. Ch. 363A (Minnesota Human Rights Act)
34 Minn. Stat. § 626.556 (Reporting of Maltreatment of Minors)
35 20 U.S.C. § 1232g (Family Educational Rights and Privacy
36 Act)
37 Minn. Op. Atty. Gen. 852 (July 14, 2006)
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39 **Cross References:** MSBA/MASA Model Policy 205 (Open Meetings and Closed
40 Meetings)
41 MSBA/MASA Model Policy 207 (Public Hearings)
42 MSBA/MASA Model Policy 406 (Public and Private Personnel
43 Data)
44 MSBA/MASA Model Policy 515 (Protection and Privacy of
45 Pupil Records)
46 MSBA Service Manual, Chapter 13, School Law Bulletin "C"
47 (Minnesota's Open Meeting Law)
48 MSBA Service Manual, Chapter 13, School Law Bulletin "I"
49 (School Records – Privacy – Access to Data)
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- 2 Adopted by the Board of Education: October 16, 2017
- 3 Reviewed by the Board of Education:
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