

INDEPENDENT SCHOOL DISTRICT 283

SECTION/FILE 206

DATE OF ADOPTION 9/12/11

REVISED 9/22/14

TITLE Public Participation in School Board Meetings/Complaints About Persons at School Board Meetings and Data Privacy Concerns

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 importance of conducting orderly and efficient proceedings, with opportunity for expression of all participants' respective views.
- B. The purpose of this policy is to provide procedures to assure open and orderly public discussion as well as to protect 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 discussion by citizens of 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 expression in order to facilitate free discussion by all interested parties.
- B. The School Board shall, as a matter of policy, protect the legal rights to privacy and due process of employees and students.

III. DEFINITIONS

- A. "Personnel data" means data on individuals collected 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 social security number; actual gross salary; salary range; 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 training background; previous work experience; date of first and last employment; the existence and status of any complaints or charges against the employee, regardless of whether the complaint or charge resulted in a disciplinary action; the final disposition of any disciplinary action 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 the public body; the terms of any

agreement settling any dispute arising out of the employment relationship, including a superintendent buyout agreement, except that the agreement must include specific reasons for the agreement if it involves the payment of more than \$10,000 of public money; work location; a work telephone number; badge number; honors and awards received; and payroll time sheets or other comparable data that are only used 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.

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

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

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

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

- F. Data about applicants for appointments to a public body, including a school board, collected by the school district as a result of the applicant's application for appointment to the public body are private data on individuals, except that the following are public: name; city of residence, except where the appointment has a residency requirement that requires the entire address to be public; education and training; employment history; volunteer work; awards and honors; and prior government service. Once an individual has been appointed to a public body, the following additional items of data are public: residential address and either a telephone number or electronic mail address where the appointee can be reached, or both at the request of the appointee; provided, however, 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.

IV. RIGHTS TO PRIVACY

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

1. right to a private hearing for teachers, pursuant to Minn. Stat. § 122A.40, Subd. 14 (Teachers Discharge Hearing);
2. right to privacy of personnel data as provided by Minn. Stat. § 13.43 (Personnel Data);

3. right to consideration by the school board of certain data treated as not public as provided in Minn. Stat. § 13D.05 (Not Public Data);
 4. right to a private hearing for licensed or non-licensed head varsity coaches to discuss reasons for nonrenewal of a coaching contract pursuant to Minn. Stat. § 122A.33, Subd. 3.
- B. School district students have a legal right to privacy related to matters which may come before the school board, including, but not limited to, the following:
1. right to a private hearing, Minn. Stat. § 121A.47, Subd. 5 (Student Dismissal Hearing);
 2. right to privacy of educational data, Minn. Stat. § 13.32 (Educational Data); 20 U.S.C. § 1232g (FERPA);
 3. right to privacy of complaints as provided by child abuse reporting and discrimination laws, Minn. Stat. § 626.556 (Reporting of Maltreatment of Minors) and Minn. Stat. Ch. 363A (Minnesota Human Rights Act).

V. PENALTIES FOR VIOLATION OF DATA PRIVACY

- A. The school district is liable for damages, costs and attorneys' fees, and, in the event of a willful violation, punitive damages for violation of state data privacy laws. (Minn. Stat. § 13.08, Subd. 1)
- B. A person who willfully violates data privacy is guilty of a misdemeanor. (Minn. Stat. § 13.09)
- C. In the case of an employee, willful violation constitutes just cause for suspension without pay or dismissal. (Minn. Stat. § 13.09)

Legal References: Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)
Minn. Stat. § 13.601, Subd. 3 (Applicants for Appointment)
Minn. Stat. § 13D.05 (Open Meeting Law)
Minn. Stat. § 121A.47, Subd. 5 (Student Dismissal Hearing)
Minn. Stat. § 122A.33, Subd. 3 (Coaches; Opportunity to Respond)
Minn. Stat. § 122A.40, Subd. 14 (Teacher Discharge Hearing)
Minn. Stat. § 122A.44 (Contracting with Teachers)
Minn. Stat. § 123B.02, Subd. 14 (Employees; Contracts for Services)
Minn. Stat. Ch. 363A (Minnesota Human Rights Act)
Minn. Stat. § 626.556 (Reporting of Maltreatment of Minors)
20 U.S.C. § 1232g (Family Educational Rights and Privacy Act)
Minn. Op. Atty. Gen. 852 (July 14, 2006)

Cross References: MSBA/MASA Model Policy 205 (Open Meetings and Closed Meetings)
MSBA/MASA Model Policy 207 (Public Hearings)
MSBA/MASA Model Policy 406 (Public and Private Personnel Data)

MSBA/MASA Model Policy 515 (Protection and Privacy of Pupil Records)
MSBA Service Manual, Chapter 13, School Law Bulletin “C” (Minnesota’s Open Meeting Law)
MSBA Service Manual, Chapter 13, School Law Bulletin “I” (School Records – Privacy – Access to Data)

VI. PROCEDURES

A. Open Forum Guidelines

1. Citizens who wish to address the school board on a particular subject should identify the subject and by completing the yellow Open Forum Comment sheet.
2. The School Board Chair will recognize one speaker at a time. When called upon to speak, the speaker will be asked to state their name, address and topic. All remarks shall be addressed to the Board as a whole, not to any specific member(s) or to any person who is not a member of the Board. The Chair will rule out of order other speakers who are not recognized. Only those speakers recognized by the chair will be allowed to speak. Comments by others are out of order. Individuals who interfere with or interrupt speakers, the School Board, or the proceedings may be directed to leave.

If a group or organization wishes to address the school board on a topic, the School Board reserves the right to require designation of one or more representatives or spokespersons to speak on behalf of the group or organization.

3. The School Board retains the discretion to limit discussion of any item to a reasonable period of time as determined by the School Board. A limit of three (3) minutes will be announced to the speaker and a timekeeper will advise when the three (3 minutes) have expired. Longer time may be granted at the discretion of the Board chair. If the speaker has written comments, the Board would like to have a copy, which will help them better understand, investigate and respond to the concern.
4. During Open Forum, the Board and Administration will listen to comments; they may not respond to speaker’s comments at this meeting. In the event the speaker’s issue is not discussed immediately, a timely follow-up will occur. Board members or the Superintendent may ask questions of the speaker in order to gain a thorough understanding of the concern, suggestion or request.
5. Matters proposed for discussion during Open Forum which may involve data privacy concerns, which may involve preliminary allegations, or which may be potentially libelous or slanderous in nature shall not be considered in public, but shall be processed as determined by the school board in accordance with governing law.

6. The School Board Chair shall promptly rule out of order any discussion by any person, including school board members, that would violate the provisions of state or federal law, this policy or the statutory rights of privacy of an individual.
7. Personal attacks by anyone addressing the school board are unacceptable. Disrespectful comments or comments of a personal nature directed at an individual either by name or inference, will not be allowed. Personnel concerns should be directed first to a Principal, the Assistant Superintendent, the Superintendent, and finally in writing to the School Board. Persistence in such remarks by an individual shall terminate that person's privilege to address the school board.
8. Depending upon the number of persons in attendance seeking to be heard, the school board reserves the right to impose such other limitations and restrictions as necessary in order to provide an orderly, efficient and fair opportunity for those present to be heard.
9. Open Forum is typically held at the second school board meeting of each month. The school board may decide to hold certain types of public meetings where the public will not be invited to address the school board. Possible examples are work sessions and board retreats. The public will still be entitled to notice of these meetings and will be allowed to attend these meetings, but the public will not be allotted time during the meeting to address the board.

B. Complaints

1. Routine complaints about a teacher or other employee should first be directed to that teacher or employee or to the employee's immediate supervisor.
2. If the complaint is against an employee relating to child abuse, discrimination, racial, religious, or sexual harassment, or other activities involving an intimidating atmosphere, the complaint should be directed to the employee's supervisor or other official as designated in the school district policy governing that kind of complaint. In the absence of a designated person, the matter should be referred to the Superintendent.
3. Unresolved complaints from Paragraph 1. of this section or problems concerning the school district should be directed to the Superintendent's office.
4. Complaints which are unresolved at the Superintendent's level may be brought before the school board by notifying the school board in writing.

C. No Board Action at Same Meeting

Except as determined by the school board to be necessary or in an emergency, the School Board will not take action at the same meeting on an item raised for the first time by the public.

D. The Public's Opportunity To Be Heard

The School Board will strive to give all citizens of the school district an opportunity to be heard and to have complaints considered and evaluated, within the limits of the law and this policy and subject to reasonable time, place, and manner restrictions. Among the rights available to the public is the right to access public data as provided by Minn. Stat. § 13.43, Subd. 2 (Public Data).

E. Public Request for Information and Copies

All data requests are to be submitted and processed through the Superintendent's office.

St. Louis Park Public Schools charges members of the public for copies of government data. These charges are authorized under Minnesota Statutes, section 13.03, subdivision 3 (c).

Payment for gathering of data for review or copies must be made in advance payable to Independent School District 283.

COSTS

When a charge is not set by statute or rule, the charge is the actual cost of searching for and retrieving the data and making the copies at 25 cents per page/side or electronically transmitting the data (e.g. sending the data by email) at 25 cents per page.

In determining the actual cost of making copies, we factor in employee time, the cost of the materials onto which we are copying the data (paper, CD, DVD, etc.) and mailing costs (if any). If your request is for copies of data that we cannot reproduce ourselves, such as photographs, we will charge you the actual cost we must pay an outside vendor for the copies.

The cost of the employee time to search for data, retrieve data, and make copies is _____ (*hourly rate - \$XX.XX*) per hour. If because of the subject matter of your request, we find it necessary for a higher-paid employee to search for and retrieve the data, we will calculate the search and retrieval portion of the copy charge at the higher salary/wage.

The Public Request for Information form is available by contacting the Superintendent's office