



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

I. PURPOSE

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 district stakeholders 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.
- C. Among the rights available to the public is the right to access public data as provided by Minn. Stat. Ch. 13.

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. Personnel data also includes data submitted by an employee to the school district as part of an organized self-evaluation effort by the school district to request suggestions from all employees on ways to cut costs, make the school district more efficient, or to improve school district operations.
- 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 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 as defined in Minn. Stat. § 13.43, Subd. 2(b), 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 school district; the complete terms of any agreement settling any dispute arising out of the employment relationship, including a buyout agreement as defined in Minn. Stat. § 123B.143, Subd. 2, except that the agreement must include specific reasons for the agreement if it involves the payment of more than \$10,000 of public money and such agreement may not have the purpose or effect of limiting access to or disclosure of personnel data or limiting the discussion of information or opinions related to personnel data; work location; work telephone number; badge number; work-related continuing education; 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 by the school district 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 school board 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 or by a person acting for 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 registration, or individuals who receive shared time educational services from the school district.
- 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; prior government service; any data required to be provided or that is voluntarily provided in an application to a multimember agency pursuant to Minn. Stat. § 15.0597; and veteran status. Once an individual has been appointed to a public body, the following additional items of data are public: residential address; either a telephone number or electronic mail address where the appointee can be reached, or both at the request of the appointee; the first and last dates of service on the public body; the existence and status of any complaints or charges against an appointee; and, upon completion of an investigation of a complaint or charge against an appointee, the final investigative report unless access to the data would jeopardize an active investigation. 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 (Hearing Procedures);
 - 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 (Meetings Having Data Classified as 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 (Notice of Nonrenewal; Opportunity to Respond).
- 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, pursuant to Minn. Stat. § 121A.47, Subd. 5 (Exclusion and Expulsion Procedures);
 - 2. right to privacy of educational data as provided in, Minn. Stat. § 13.32 (Educational Data); 20 U.S.C. § 1232g (FERPA); and state and federal regulations;
 - 3. right to privacy of complaints as provided by child abuse reporting and discrimination laws, Minn. Stat Ch. 160 E (Reporting of Maltreatment of Minors) and Minn. Stat. Ch. 363A (Minnesota Human Rights Act).

V. 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. Ch. § 13 (Minnesota Government Data Practices Act (MGDPA)).

VI. PROCEDURES

A. Open Forum Guidelines

1. Community members seeking to have a subject discussed at a public school board meeting are encouraged to notify the superintendent's office in advance of the school board meeting and provide his or her name, address, the name of the group represented (if any) and the subject to be covered or issue requested to be addressed.
2. Community members who would like to address the school board, will fill out a slip with name, address, and connection to the district and topic and provide to the board chair prior to the meeting start time.
3. The board chair will recognize one speaker at a time and 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.
4. Speakers must state their name.
5. Each speaker will be provided three minutes.
6. The board chair can end the Open Forum at any time.
7. Data privacy laws do not allow for any matters concerning private or confidential data about individual employees or students to be discussed.
8. 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.
9. Personal attacks by anyone addressing the school board are unacceptable. Persistence in such remarks by an individual shall terminate that person's privilege to address the school board.
10. 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.
11. The school board is not required to hold an open forum and this procedure may be modified by the board at any time.
12. Statements by open forum speakers will be redacted from uploaded meetings if a privacy violation occurs

B. Complaints – Also see policy 103

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 harassment based on protected class, 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. Open Forum

The school board may provide a specified period of time at a regular board meeting when persons may address the school board on any topic, subject to the limitations of this policy. The school board reserves the right to allocate a specific period of time for this purpose and limit time for speakers accordingly.

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.

VII. 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 or whose conduct constitutes the knowing unauthorized acquisition of not public data, as defined in Minn. Stat. § 13.055, subd, 1, is guilty of a misdemeanor. (Minn. Stat. § 13.09)
- C. In the case of an employee, willful violation of the MGDPA, Chapter 13, and any rules adopted thereunder, including any action subject to a criminal penalty under Section VI.B., 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. § 13.055, subd, 1 (Disclosure of Breach in Security; Notification and Investigation Report Required)
 - Minn. Stat. § 13.08 (Civil Remedies)
 - Minn. Stat. § 13.09 (Penalties)
 - Minn. Stat. § 13.43 (Personnel Data)
 - Minn. Stat. § 13.601, Subd. 3 (Applicants for Appointment)
 - Minn. Stat. § 13D.05 (Meetings Having Data Classified as Not Public)
 - Minn. Stat. § 15.0597 (Appointments to Multimember Agencies)
 - Minn. Stat. § 121A.47, Subd. 5 (Exclusion and Expulsion Procedures)
 - Minn. Stat. § 122A.33, Subd. 3 (Notice of Nonrenewal; Opportunity to Respond)
 - Minn. Stat. § 122A.40, Subd. 14 (Hearing Procedures)
 - Minn. Stat. § 122A.44 (Contracting with Teachers; Substitute Teachers)
 - Minn. Stat. § 123B.02, Subd. 14 (Employees; Contracts for Services)
 - Minn. Stat. § 123B.143, Subd. 2 (Disclose Past Buyouts or Contract is Void)
 - Minn. Stat. Ch. 363A (Minnesota Human Rights Act)
 - Minn. Stat. 260E (Reporting of Maltreatment of Minor)
 - 20 U.S.C. § 1232g (Family Educational Rights and Privacy Act)
 - Minn. Op. Atty. Gen. 852 (July 14, 2006)
- Cross References:
- School District Policy 205 (Open Meetings and Closed Meetings)
 - MSBA/MASA Model Policy 207 (Public Hearings)
 - School District Policy 406 (Public and Private Personnel Data)
 - School District 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 "T" (School Records – Privacy – Access to Data)