



206 PUBLIC 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 importance of conducting orderly and efficient proceedings, with opportunity for expression of **all** participants' respective views.
- B. The purpose of this policy is 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. It is the policy of the School Board to encourage input by citizens **at** School Board meetings. The School Board may adopt reasonable time, place and manner restrictions on public expression in order to facilitate input from 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 government data on individuals collected and 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 **money paid for work or services 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 public body; the 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; 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 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 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; prior government service; and 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 and 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 of 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 (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 nonlicensed 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. ~~chap 260E § 626.556~~ (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. § 13.43, Subd. 2 (Public Data).

VI. 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 is guilty of a misdemeanor. (Minn. Stat. § 13.09)
- C. In the case of an employee, willful violation of the Minnesota data practices law, Chapter 13, and any rules adopted thereunder, including any action subject to a criminal penalty, 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. § 13.43 (Personnel Data)
Minn. Stat. § 13.601, Subd. 3 (Applicants for Appointment)
Minn. Stat. § 13D.05 (~~Open Meeting Law~~) (**Meetings Having Data Classified as Public**)
Minn. Stat. § 121A.47, Subd. 5 (~~Student Dismissal Hearing~~) (**Exclusion and Expulsion Procedures; Closed or Open Meeting**)
Minn. Stat. § 122A.33, Subd. 3 (~~Coaches; Opportunity to Respond~~) (**License and Degree Exemption for Head Coach; Notice of Nonrenewal; Opportunity to Respond**)
Minn. Stat. § 122A.40, Subd. 14 (~~Teacher Discharge Hearing~~) (**Employment; Contracts; Termination; Hearing Procedures**)
Minn. Stat. § 122A.44 (Contracting with Teachers; **Substitute Teachers**)
Minn. Stat. § 123B.02, Subd. 14 (**General Powers of Independent School Districts**; Employees; Contracts for Services)
Minn. Stat. § 123B.143, Subd. 2 (**Superintendents**; Disclose Past Buyouts or Contract is Void)
Minn. Stat. Ch. 363A (Minnesota Human Rights Act)
Minn. Stat. ~~§ 626.556~~ **Ch. 260E** (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)

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