



Adopted: MSBA/MASA Model Policy 205

Revised: 2022 (Originated 1995)

205 Open Meetings and Closed Meetings

[Note: The provisions of this policy accurately reflect Minnesota's Open Meeting Law statutes and are not discretionary in nature.]

I. PURPOSE

- A. The BrightWorks Board embraces accountability and transparency in the conduct of its business, in the belief that openness produces better programs, more efficient administration of programs, and an organization more responsive to public interest and less susceptible to private interest. The BrightWorks Board shall conduct its business under a presumption of openness. At the same time, the BrightWorks Board recognizes and respects the privacy rights of individuals as provided by law. The BrightWorks Board also recognizes that there are certain exceptions to the Minnesota Open Meeting Law as recognized in statute where it has been determined that, in limited circumstances, the public interest is best served by closing a meeting of the board.
- B. The purpose of this policy is to provide guidelines to assure the rights of the public to be present at BrightWorks Board meetings, while also protecting an individual's rights to privacy under law, and to close meetings when the public interest so requires as recognized by law.

II. GENERAL STATEMENT OF POLICY

- A. Except as otherwise expressly provided by statute, all meetings of the board, including executive sessions, shall be open to the public.
- B. Meetings shall be closed only when expressly authorized by law.

III. DEFINITION

"Meeting" means a gathering of at least a quorum of BrightWorks Board members-or quorum of a committee or subcommittee of board members, at which members discuss, decide, or receive information as a group on issues relating to the official business of the BrightWorks Board. The term does not include a chance or social



gathering or the use of social media by members of a public body so long as the social media use is limited to exchanges with all members of the general public. For purposes of the Open Meeting Law, social media does not include e-mail.

IV. PROCEDURES

A. Meetings

1. Regular Meetings

A schedule of the regular meetings of the BrightWorks Board shall be kept on file at the service cooperative office. If the board decides to hold a regular meeting at a time or place different from the time or place stated in its regular meeting schedule, it shall give the same notice of the meeting as for a special meeting.

2. Special Meetings

- a.** For a special meeting, the BrightWorks Board shall post written notice of the date, time, place, and purpose of the meeting on the principal bulletin board of the service cooperative or on the door of the board's usual meeting room if there is no principal bulletin board. The board's actions at the special meeting are limited to those topics included in the notice.
- b.** The notice shall also be mailed or otherwise delivered to each person who has filed a written request for notice of special meetings. This notice shall be posted and mailed or delivered at least three days before the date of the meeting.
- c.** As an alternative to mailing or otherwise delivering notice to persons who have filed a written request, the board may publish the notice once, at least three days before the meeting, on the website of the service cooperative.
- d.** A person filing a request for notice of special meetings may limit the request to particular subjects, in which case the board is required to send notice to that person only concerning those particular subjects.
- e.** The BrightWorks Board will establish an expiration date on



requests for notice of special meetings and require refiling once each year. Not more than sixty (60) days before the expiration date of request for notice, the board shall send notice of the refiling requirement to each person who filed during the preceding year.

3. Emergency Meetings

- a. An emergency meeting is a special meeting called because of circumstances that, in the BrightWorks Board's judgment, require immediate consideration.

[Note: While the statute leaves the question to the board of whether the circumstances require immediate consideration at an emergency meeting, advisory opinions of the Minnesota Commissioner of Administration would limit such meetings to responding to natural disasters or health epidemics caused by an event such as an accident or terrorist attack.]

- b. If matters not directly related to the emergency are discussed or acted upon, the minutes of the meeting shall include a specific description of those matters.
- c. The BrightWorks Board shall make good faith efforts to provide notice of the emergency meeting to each news medium that has filed a written request for notice if the request includes the news medium's telephone number.
- d. Notice of the emergency meeting shall be given by telephone, text message or any other method used to notify the members of the board.
- e. Notice shall be provided to each news medium which has filed a written request for notice as soon as reasonably practicable after notice has been given to the board members.
- f. Notice shall include the subject of the meeting.
- g. Posted or published notice of an emergency meeting shall not be required.
- h. The notice requirements for an emergency meeting as set forth



in this policy shall supersede any other statutory notice requirement for a special meeting that is an emergency meeting.

4. Recessed or Continued Meetings

If a meeting is a recessed or continued session of a previous meeting, and the time and place of the meeting was established during the previous meeting and recorded in the minutes of that meeting, then no further published or mailed notice is necessary.

5. Closed Meetings

The notice requirements of the Minnesota Open Meeting Law apply to closed meetings.

6. Actual Notice

If a person receives actual notice of a meeting of the BrightWorks Board at least twenty-four 24 hours before the meeting, all notice requirements are satisfied with respect to that person, regardless of the method of receipt of notice.

7. Meetings during Pandemic or Chapter 12 Emergency

In the event of a health pandemic or an emergency declared under Minnesota Statutes chapter 12, a meeting may be conducted by telephone or interactive technology in compliance with Minnesota Statutes section 13D.021.

8. Meetings by Interactive Technology

A meeting may be conducted by interactive technology, Microsoft Teams, Zoom, Skype, or other similar electronic means in compliance with Minnesota Statutes section 13D.02.

B. Votes

The votes of board members shall be recorded in a journal or minutes kept for that purpose. The journal or any minutes used to record votes of a meeting must be open to the public during all normal business hours at the service cooperative's administrative offices.

C. Written Materials



1. In any open meeting, a copy of any printed materials, including electronic communications, relating to the agenda items of the meeting prepared or distributed by or at the direction of the board or its employees and distributed to or available to all board members shall be available in the meeting room for inspection by the public while the board considers their subject matter.
2. This provision does not apply to materials not classified by law as public, or to materials relating to the agenda items of a closed meeting.

D. Open Meetings and Data

1. Meetings may not be closed to discuss data that are not public data, except as provided under Minnesota law.
2. Data that is not public data may be discussed at an open meeting if the disclosure relates to a matter within the scope of the board's authority and is reasonably necessary to conduct the business or agenda item before the board.
3. Data discussed at an open meeting retain the data's original classification; however, a record of the meeting, regardless of form, shall be public.

E. Closed Meetings

1. Labor Negotiations Strategy

- a. The BrightWorks Board may, by a majority vote in a public meeting, decide to hold a closed meeting to consider strategy for labor negotiations, including negotiation strategies or developments or discussion and review of labor negotiation proposals, conducted pursuant to Minnesota's Public Employment Labor Relations Act (PELRA).
- b. The time and place of the closed meeting shall be announced at the public meeting. A written roll of board members and all other persons present at the closed meeting shall be made available to the public after the closed meeting. The proceedings of a closed meeting to discuss negotiation strategies shall be tape recorded, and the tape recording shall be preserved for two years after the contract discussed at the



meeting is signed. The recording shall be made available to the public after all labor contracts are signed by the board for the current budget period.

2. Sessions Closed by Bureau of Mediation Services

All negotiations, mediation meetings, and hearings between the board and its employees or their respective representatives are public meetings. Mediation meetings may be closed only by the Commissioner of the Bureau of Mediation Services (BMS). The use of recording devices, stenographic records, or other recording methods is prohibited in mediation meetings closed by the BMS.

3. Preliminary Consideration of Allegations or Charges

The board shall close one or more meetings for preliminary consideration of allegations or charges against an individual subject to its authority. If the board members conclude that discipline of any nature may be warranted as a result of those specific charges or allegations, further meetings or hearings relating to those specific charges or allegations held after that conclusion is reached must be open. A meeting must also be open at the request of the individual who is the subject of the meeting. A closed meeting for this purpose must be electronically recorded at the expense of the service cooperative, and the recording must be preserved for at least three years after the date of the meeting. The recording is not available to the public.

4. Performance Evaluations

The board may close a meeting to evaluate the performance of an individual who is subject to its authority. The BrightWorks Board shall identify the individual to be evaluated prior to closing a meeting. At its next open meeting, the board shall summarize its conclusions regarding the evaluation. A meeting must be open at the request of the individual who is the subject of the meeting. A closed meeting for this purpose must be electronically recorded at the expense of the service cooperative, and the recording must be preserved for at least three years after the date of the meeting. The recording is not available to the public.

5. Attorney-Client Privilege Meeting



A meeting may be closed if permitted by the attorney-client privilege. Attorney-client privilege applies when litigation is imminent or threatened, or when the BrightWorks Board needs advice above the level of general legal advice, for example, regarding specific acts and their legal consequences. A meeting may be closed to seek legal advice concerning litigation strategy, but the mere threat that litigation might be a consequence of deciding a matter one way or another does not, by itself, justify closing the meeting. The motion to close the meeting must specifically describe the matter to be discussed at the closed meeting, subject to relevant privacy and confidentiality considerations under state and federal law. The law does not require that such a meeting be recorded.

6. Dismissal Hearing

- a.** A hearing on dismissal of an employee shall be public or private at the employee's discretion.
- b.** To the extent an employee dismissal hearing is held before the BrightWorks Board and is closed, the closed meeting must be electronically recorded at the expense of the service cooperative, and the recording must be preserved for at least three years after the date of the meeting. The recording is not available to the public.

7. Meetings to Discuss Certain Not Public Data

- a.** Any portion of a meeting must be closed if the following types of data are discussed:
 - (1) data that would identify alleged victims or reporters of criminal sexual conduct, domestic abuse, or maltreatment of minors or vulnerable adults;
 - (2) active investigative data collected or created by a law enforcement agency;
 - (3) educational data, health data, medical data, welfare data, or mental health data that are not public data; or
 - (4) an individual's personal medical records.
- b.** A closed meeting must be electronically recorded at the



expense of the service cooperative, and the recording must be preserved for at least three years after the date of the meeting. The recording is not available to the public.

8. Purchase and Sale of Property

- a.** The board may close a meeting:
 - (1) to determine the asking price for real or personal property to be sold by the service cooperative;
 - (2) to review confidential or nonpublic appraisal data; and
 - (3) to develop or consider offers or counteroffers for the purchase or sale of real or personal property.
- b.** Before closing the meeting, the board must identify on the record the particular real or personal property that is the subject of the closed meeting.
- c.** The closed meeting must be tape recorded at the expense of the service cooperative. The tape must be preserved for eight years after the date of the meeting and be made available to the public after all real or personal property discussed at the meeting has been purchased or sold or the board has abandoned the purchase or sale. The real or personal property that is the subject of the closed meeting must be specifically identified on the tape. A list of board members and all other persons present at the closed meeting must be made available to the public after the closed meeting.
- d.** An agreement reached that is based on an offer considered at a closed meeting is contingent on its approval by the board at an open meeting. The actual purchase or sale must be approved at an open meeting and the purchase price or sale price is public data.

9. Security Matters

- a.** The board may close a meeting to receive security briefings and reports, to discuss issues related to security systems, to discuss emergency response procedures, and to discuss security



deficiencies in or recommendations regarding public services, infrastructure, and facilities, if disclosure of the information discussed would pose a danger to public safety or compromise security procedures or responses.

- b.** Financial issues related to security matters must be discussed and all related financial decisions must be made at an open meeting.
- c.** Before closing a meeting, the board must refer to the facilities, systems, procedures, services, or infrastructures to be considered during the closed meeting.
- d.** The closed meeting must be tape recorded at the expense of the service cooperative and the recording must be preserved for at least four years.

10. Other Meetings

Other meetings shall be closed as provided by law, except as provided above. A closed meeting must be electronically recorded at the expense of the service cooperative, and the recording must be preserved for at least three years after the date of the meeting. The recording is not available to the public.

F. Procedures for Closing a Meeting

The board shall provide notice of a closed meeting just as for an open meeting. A board meeting may be closed only after a majority vote at a public meeting. Before closing a meeting, the board shall state on the record the specific authority permitting the meeting to be closed and shall describe the subject to be discussed.

Legal References:

Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)

Minn. Stat. Ch. 13D (Open Meeting Law)

Minn. Stat. § 121A.47, Subd. 5 (Exclusion and Expulsion Procedures)

Minn. Stat. § 122A.33, Subd. 3 (License and Degree Exemption for Head Coach)

Minn. Stat. § 122A.40, Subd. 14 (Employment; Contracts; Termination)



Minn. Stat. § 179A.14, Subd. 3 (Negotiation Procedures)

Minn. Rules Part 5510.2810 (Petition for Mediation)

Brown v. Cannon Falls Township, 723 N.W.2d 31 (Minn. App. 2006)

Brainerd Daily Dispatch v. Dehen, 693 N.W.2d 435 (Minn. App. 2005)

The Free Press v. County of Blue Earth, 677 N.W.2d 471 (Minn. App. 2004)

Prior Lake American v. Mader, 642 N.W.2d 729 (Minn. 2002)

Star Tribune v. Board of Education, Special School District No. 1, 507 N.W.2d 869 (Minn. App. 1993)

Minnesota Daily v. University of Minnesota, 432 N.W.2d 189 (Minn. App. 1988)

Moberg v. Independent School District No. 281, 336 N.W.2d 510 (Minn. 1983)

Sovereign v. Dunn, 498 N.W.2d 62 (Minn. App. 1993), rev. denied. (Minn. 1993)

Dept. of Admin. Advisory Op. No. 21-003 (April 19, 2021)

Dept. of Admin. Advisory Op. No. 21-002 (January 13, 2021)

Dept. of Admin. Advisory Op. No. 19-012 (October 24, 2019)

Dept. of Admin. Advisory Op. No. 19-008 (May 22, 2019)

Dept. of Admin. Advisory Op. No. 19-006 (April 9, 2019)

Dept. of Admin. Advisory Op. No. 18-019 (December 28, 2018)

Dept. of Admin. Advisory Op. No. 17-005 (June 22, 2017)

Dept. of Admin. Advisory Op. No. 13-009 (March 19, 2013)

Dept. of Admin. Advisory Op. No. 12-004 (March 8, 2012)

Dept. of Admin. Advisory Op. No. 11-004 (April 18, 2011)

Dept. of Admin. Advisory Op. No. 10-020 (September 23, 2010)

Dept. of Admin. Advisory Op. No. 09-020 (September 8, 2009)

Dept. of Admin. Advisory Op. No. 08-015 (July 9, 2008)

Dept. of Admin. Advisory Op. No. 06-027 (September 28, 2006)

Dept. of Admin. Advisory Op. No. 04-004 (February 3, 2004)



Cross References:

MSBA/MASA Model Policy 204 (School Board Meeting Minutes)

MSBA/MASA Model Policy 206 (Public Participation in School Board Meetings/Complaints about Persons at School Board Meetings and Data Privacy Considerations)

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 Law Bulletin "C" (Minnesota's Open Meeting Law)