



**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 provide procedures to assure open and orderly public comments to the school board 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 comments to the school board by persons of subjects related to the school district prior to the start of regular school board meetings. The school board may adopt reasonable time, place, and manner restrictions on public expression in order to facilitate free comments to the school board 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 government data on individuals maintained because they are or were employees of the school district, applicants for employment, or volunteers or independent contractors for the school district, or members of or applicants for an advisory board or commission. Personnel data include data submitted to the school district by an employee 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. An employee who is identified in a suggestion shall have access to all data in the suggestion except the identity of the employee making the suggestion.
- 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 public body; 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; 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 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; prior government service; any data required to be provided or that is voluntarily provided in an application to a multi member 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 (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. Ch. 260E (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 persons 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. PROCEDURES FOR COMMENTS TO THE BOARD

- A. Comments to the school board will begin fifteen minutes prior to the scheduled regular school board meeting. This time is for citizens who wish to address the board regarding School District related items. A maximum of five speakers will be given the opportunity to provide public comment. The school board will not engage in discussion or provide responses during this time, however may respond at a later time and/or direct administration to follow up with the speaker.
- B. To be recognized, citizens must complete the Public Participation at School Board Meetings Procedures and Request (Form 206.1) and submit their request via email or drop it off at the district office no later than 8 am on the day prior to the regularly scheduled board meeting. If a group or organization wishes to address the school board on a topic, one representative shall be designated as the speaker. Selected speakers will be notified by the [district representative].
- C. Only those speakers recognized by the school board will be allowed to speak. Comments by others are out of order. Individuals who interfere with or interrupt speakers, school board, or the proceedings may be directed to leave.
- D. Each speaker will be limited to 3 minutes. This time may not be ceded to another speaker. 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 representative or spokespersons to speak on behalf of the group or organization.
- E. Matters 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.
- F. The school board 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.
- G. 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.

VII. PUBLIC HEARINGS

The procedures identified in Section IV A-G will also be used for comments to the school board during a public hearing, unless otherwise determined by statute or by the school board.

VIII. COMPLAINTS

- A. Routine complaints about a teacher or other employee should first be directed to that teacher or employee or to the employee's immediate supervisor.
- B. If the complaint is against an employee relating to child abuse, discrimination, racial, religious, 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.
- C. Unresolved complaints from Paragraph 1 of this section or problems concerning the school district should be directed to the superintendent's office.
- D. Complaints which are unresolved at the superintendent's level may be brought before the board as a whole by notifying the school board chair in writing.

IX. 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)

X. PROCEDURES

The Board may determine at the Organizational Meeting, or as otherwise necessary at a board meeting, the time, place, and manner considerations for this policy as outlined in 206.2.

- 1. Meeting start time and day of the week
- 2. Start time of the public comment session
- 3. The location of the public comment session
- 4. If the public comment sessions will be recorded/live streamed
- 5. If public comment sessions will be summarized as outlined in Policy 203.2.

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 (Meetings Having Data Classified as Public)
Minn. Stat. § 121A.47, Subd. 5 (Exclusion and Expulsion Procedures; Closed or Open Meeting)
Minn. Stat. § 122A.33, Subd. 3 (License and Degree Exemption for Head Coach; Notice of Nonrenewal; Opportunity to Respond)
Minn. Stat. § 122A.40, Subd. 14 (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. 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: ISD 200 Policy 203.2 (Order of the Regular School Board Meeting)
ISD 200 Policy 205 (Open Meetings and Closed Meetings)
ISD 200 Policy 206.2 (Board Procedures for Policy 206)
ISD 200 Policy 207 (Public Hearings)
SD 200 Policy 406 (Public and Private Personnel Data)
ISD 200 Policy 515 (Protection and Privacy of Pupil Records)
MSBA School Law Bulletin “C” (Minnesota’s Open Meeting Law)
MSBA School Law Bulletin “I” (School Records – Privacy – Access to Data)

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