Open Meetings and Closed Meetings

I. Purpose

This policy provides guidelines to assure the rights of the public to be present at school board meetings, while also protecting an individual's right 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 school board meetings, including executive sessions, are open to the public.

B. The school district embraces the philosophy of openness in the conduct of its business, in the belief that openness produces better programs, more efficiency in administration of programs, and an organization more responsive to public interest and less susceptible to private interest.

C. The board conducts its business under a presumption of openness. At the same time, the board recognizes and respects the privacy rights of individuals as provided by law. The board 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.

III. Definitions

For purposes of this policy, the definitions included in this section apply.

A. A "meeting" means a gathering of at least a quorum of the members of the school board at which members discuss, decide, and make recommendations or final decisions relating to the official business of the board. The term does not include a chance or social gathering.

B. A "quorum" is a majority of the members.

IV. Procedures

A. Meetings

1. Regular Meetings

The school board will approve a schedule of regular ~~school~~ board meetings annually. This schedule will be ~~displayed for the public at the school district office and on the school district website~~ kept on file at the school district office. If the board decides to hold a regular meeting at a time or place different from the time or place stated in its approved regular meeting schedule, ~~the change must~~ will ~~first be approved by the board and must follow~~ it will give the same notice of the meeting as for a special meeting.

2. Special Meetings

   Special meetings are meetings that are not part of the yearly ~~B~~board-approved regular meeting schedule.

   a. For a special meeting, the board will post written notice of the date, time, place, and purpose of the meeting on the principal bulletin board of the ~~school~~ district. The board's actions at the special meeting are limited to those topics included in the notice.

   b. The notice will also be delivered, ~~by standard or electronic mail~~, to each person who has filed a written request for notice of special meetings. This notice ~~shall~~ will be posted and mailed or delivered at least three days before the date of the meeting.

   c. The notice will be posted and mailed or delivered at least three days before the date of the meeting. 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, in the official newspaper of the ~~school~~ district or, if none, in a qualified newspaper of general circulation within the area of the ~~school~~ district.

   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 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 will 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 ~~school~~ board's judgment, require immediate consideration.

b. If matters not directly related to the emergency are discussed or acted upon, the minutes of the meeting ~~must~~ will include a specific description of those matters.

c. The board will 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. The notice to the news medium ~~must~~ will be provided as soon as reasonably practicable after the notice has been provided to the board members.

d. The notice of the emergency meeting, which includes the subject of the meeting, is given by telephone or any other method used to notify the members of the school board.

e. Posted or published notice of an emergency meeting is not required.

f. The notice requirements for an emergency meeting as set forth in this policy supersedes any 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 in compliance with ~~Minn. Stat. Ch.13D~~ state law.

6. Actual Notice

   If a person receives actual notice of a meeting of the 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 Health Pandemic or Chapter 12 Emergency

In the event of a health pandemic or an emergency declared under Minn. Stat. Ch. 12, a meeting may be conducted by telephone or other electronic means in compliance with ~~Minn. Stat. § 13D.021~~ state law.

8. Meetings Conducted by Interactive Technology

   A meeting may be conducted by interactive technology, Zoom, or other similar electronic means in compliance with ~~Minn. Stat § 13D.02~~ state law.

B. Open Meetings and Data

1. Meetings may not be closed to discuss data that are not public data as provided under Minnesota law.

2. Data that are 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 is public.

C. Reasons for a Closed Meeting

1. Labor Negotiations Strategy

   a. The 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 ~~must~~ will be announced at the public meeting. A written roll of board members and all other persons present at the closed meeting will be made available to the public after the closed meeting. The proceedings of a closed meeting to discuss negotiation strategies will be audio recorded. The audio recording ~~must~~ will be preserved for two years after the contract discussed at the meeting is signed. The recording will 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 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 sessions closed by BMS.

3. Preliminary Consideration of Allegations or Charges Against an Individual

    a. The board will close one or more meetings for preliminary consideration of allegations 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 allegations, further meetings or hearings relating to those specific charges or allegations held after that conclusion is reached ~~must~~ will be open.

    b. A meeting ~~must~~ will also be open at the request of the individual who is the subject of the meeting.

    c. A closed meeting for this purpose ~~must~~ will be electronically recorded at the expense of the district, and the recording ~~must~~ will be preserved for at least three years after the date of the meeting. The individual who is the subject may obtain a transcript at their own expense. The recording is not available to the public

4. Performance Evaluations

    a. The board may close a meeting to evaluate the performance of an individual who is subject to its authority.

    b. The board will identify the individual to be evaluated prior to closing a meeting. At its next open meeting, the board will summarize its conclusions regarding the evaluation.

    c. A meeting ~~must~~ will be open at the request of the individual who is the subject of the meeting.

    d. A closed meeting for this purpose ~~must~~ will be electronically recorded at the expense of the district, and the recording ~~must~~ will 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. 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 board needs advice above the level of general legal advice (i.e., 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.

b. The motion to close the meeting ~~must~~ will specifically describe the matter to be discussed at the closed meeting, subject to relevant privacy and confidentiality considerations under state and federal law.

c. The law does not require that such a meeting be recorded.

6. Dismissal Hearing

a. A hearing on the dismissal of a licensed teacher will be public or private at the teacher's discretion. A hearing regarding placement of teachers on unrequested leave of absence is public.

b. A hearing on dismissal of a student pursuant to the Pupil Fair Dismissal Act is closed unless the student, parent, or guardian requests an open hearing.

c. To the extent a teacher or student dismissal hearing is held before the board and is closed, the closed meeting ~~must~~ will be electronically recorded at the expense of the district. The recording ~~must~~ will be preserved for at least three (3) years after the date of the meeting. The recording is not available to the public.

7. Coaches; Opportunity to Respond

a. If the board has declined to renew the coaching contract of a licensed or non-licensed head varsity coach, it ~~must~~ will notify the coach within fourteen (14) days of that decision.

b. If the coach requests the reasons for the nonrenewal, the board ~~must~~ will give the coach its reasons in writing within ten (10) days of receiving the request conducted pursuant to Minnesota's Public Employment Labor Relations Act (PELRA).

c. On the request of the coach, the board ~~must~~ will provide the coach with a reasonable opportunity to respond to the reasons at a board meeting.

d. The meeting may be open or closed at the election of the coach, unless the meeting is closed as required by ~~Minn. Stat. § 13D.05, Subd. 2~~ state law to discuss educational or certain other nonpublic data.

e. A meeting closed for this purpose ~~must~~ will be electronically recorded at the expense of the ~~school~~ district, and the recording ~~must~~ will be preserved for at least three years after the date of the meeting. The recording is not available to the public.

8. Meetings to Discuss Certain Not Public Data

Any portion of a meeting ~~must~~ will be closed if the following types of data are discussed:

a. data that would identify alleged victims or reporters of criminal sexual conduct, domestic abuse, or maltreatment of minors or vulnerable adults;

b. active investigative data collected or created by a law enforcement agency;

c. educational data, health data, medical data, welfare data, or mental health data that are not public data; or

d. an individual's personal medical records.

e. A closed meeting ~~must~~ will be electronically recorded at the expense of the ~~school~~ district, and the recording ~~must~~ will be preserved for at least three years after the date of the meeting. The recording is not available to the public.

9. Purchase and Sale of Property

a. The board may close a meeting:

i. to determine the asking price for real or personal property to be sold by the district;

ii. to review confidential or nonpublic appraisal data; and

iii. 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~~ will identify on the record the particular real or personal property that is the subject of the closed meeting.

c. The closed meeting ~~must~~ will be tape recorded at the expense of the ~~school~~ district. The tape must be preserved for eight (8) 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~~ will be specifically identified on the tape. A list of board members and all other persons present at the closed meeting ~~must~~ will 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~~ will be approved at an open meeting and the purchase price or sale price is public data.

10. Security Matters

a. The board may close a meeting (1) to receive security briefings and reports, (2) to discuss issues related to security systems, (3) to discuss emergency response procedures, and (4) 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~~ will be discussed and all related financial decisions ~~must~~ will be made at an open meeting.

c. Before closing a meeting, the board ~~must~~ will refer to the facilities, systems, procedures, services, or infrastructures to be considered during the closed meeting.

d. The closed meeting ~~must~~ will be tape recorded at the expense of the ~~school~~ district and the recording ~~must~~ will be preserved for at least four (4) years.

11. Other Meetings

Other meetings ~~must~~ will be closed as provided by law, except as provided above. A closed meeting ~~must~~ will be electronically recorded at the expense of

the ~~school~~ district. The recording ~~must~~ will be preserved for at least three years after the date of the meeting. The recording is not available to the public.

D. Reasons for a Closed Meeting

The board will provide notice of a closed meeting just as for an open meeting. A ~~school~~ board meeting may be closed only after a majority vote at an open meeting. Before closing a meeting, the board will state on the record the specific authority permitting the meeting to be closed and 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: Closed or Open Hearing
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. § 179A.14, subd. 3	Collective Bargaining Agreement; Negotiation Procedures: Public Meetings
Minn. R. 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)
Sovereign v. Dunn, 498 N.W.2d 62 (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)
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

Policy 203	Operation of the School Board
Policy 206	Public Hearings and Public Participation in School Board Meetings, Data Privacy Considerations
Policy 406	Public and Private Personnel Data
Policy 515	Protection and Privacy of Student Records

Policy

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