Public Hearings and Public Participation in School Board Meetings, Data Privacy Considerations

I. Purpose

A. The school district recognizes the value of participation by the public in deliberations and decisions on district matters. Although providing an opportunity for input in a limited public forum to a school board is not required under ~~Minnesota Statutes~~ state law, the ~~school~~ board recognizes the value of receiving input from members of the public relating to district matters. The board expects that all public comment be conducted with orderly and efficient proceedings with opportunity for expression of all participants' respective views.

B. This policy provides procedures to ensure an opportunity for open and orderly public input as well as to protect the due process and privacy rights of individuals under the law.

II. General Statement of Policy

A. The school district encourages community input on subjects related to the district at its meetings. The school board may adopt reasonable time, place, and manner restrictions on public expression in order to facilitate communication by all interested parties.

B. The board must protect the legal rights to privacy and due process of employees and students, as provided by ~~Federal and Minnesota State~~ federal and state law.

C. Public comment will be heard at Regular School Board meetings when the "Hearing from Members of the Public" agenda item is included on the agenda.

III. The Public's Opportunity to Be Heard

The school board will strive to give all stakeholders 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.

IV. Public Hearings

Public hearings are required by law to be held concerning certain issues, including but not limited to, school closings ~~(Minn. Stat. § 123B.51)~~, education district establishment ~~(Minn. Stat. § 123A.15)~~, and agreements for secondary education ~~(Minn. Stat. § 123A.30)~~. Additionally, other public hearings may be held by the school board on school district matters at the discretion of the board.

V. Rights to Privacy

A. School district employees, volunteers, and independent contractors 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 board of certain data treated as not public~~ as provided in Minn. Stat. § 13D.05 (Not Public Data)~~; and

4. right to a private hearing for head varsity coaches to discuss reasons for non-renewal of a coaching contract. ~~pursuant to Minn. Stat. § 122A.33, subd. 3.~~

B. District students have a legal right to privacy related to matters which may come before the 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 (Family Educational Rights and Privacy Act)~~; and

3. right to privacy of complaints as provided by child abuse reporting and discrimination laws~~, Minn. Stat. § 626.556 (Reporting of Maltreatment of Minors) and Minn. Stat. Ch. 363A (Minnesota Human Rights Act)~~.

VI. Procedures

A. Agenda Items

1. Community members who wish to address the school board at a public board meeting where “Hearing from Members of the Public” is included on the agenda, may indicate their interest in doing so in one of the following ways:

    a. notify the administrative assistant in the superintendent’s office in advance of the board meeting; or

    b. upon arrival at the board meeting, request and submit a completed form to the administrative assistant.

    The community member will be asked to complete a form and should provide their name, address, the name of the group represented (if any), and the subject to be covered or the issue to be addressed.

2. Community members who wish to address the board on a particular subject should identify the subject and identify the agenda item(s) to which their comments pertain.

3. The board chair will recognize one speaker at a time and will rule out of order other speakers who are not specifically recognized. Only those speakers recognized by the chair will be allowed to speak. Comments by other persons are out of order. Persons who interfere with or interrupt speakers, the board, or the proceedings may be directed to leave.

4. The board retains the discretion to limit public comment to a reasonable period of time as determined by the board.

5. If a group or organization wishes to address the board on a topic, the board reserves the right to require designation of one or more representatives or spokespersons to speak on behalf of the group or organization.

6. Matters that may include (1) data privacy concerns, (2) preliminary allegations, or (3) which may be potentially libelous or slanderous in nature will not be considered in public but will be processed as determined by the board in accordance with governing law.

7. The board chair will promptly rule out of order any discussion by any person, including a board member, which would violate the provisions of this policy, state or federal law, or the statutory rights of privacy of an individual.

8. Personal attacks by anyone addressing the board are unacceptable. Persistence in such remarks by an individual terminates that person’s privilege to address the board.

9. Members of the public may not engage in conduct that disrupts any part of a board meeting, or that otherwise impedes the board's ability to conduct its business in an orderly and efficient manner.

10. Depending upon the number of persons in attendance seeking to be heard, the 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. It is the practice of the board not to engage in discussion or debate with a speaker during the Hearing from Members of the Public agenda item. The board chair, superintendent, or designee may follow up with the speaker at a later date/time.

12. The remarks of public speakers may be livestreamed, assuming appropriate demeanor and decorum are maintained and where expectations outlined in this policy are followed. The board chair will rule out of order any speaker determined to be out of compliance with these expectations. Rebroadcasts of public comments are subject to redaction of words or statements considered to be in violation of the established expectations or that may violate any state or federal laws. The board reserves the right to not livestream or replay public comments made at board meetings if such comments are considered to be in violation of established protocols, if delivered without appropriate demeanor and decorum, and/or if the comments violate the privacy rights of individuals.

B. Formal Complaints

1. Board meetings are not an appropriate venue during which to file a specific complaint against a staff member or the school district. Filing a complaint should be done according to the steps outlined below:

    a. Complaints about an employee should first be directed to the employee or to the employee's immediate supervisor. ~~(See Policy 104, Complaints – Students, Employees, Parents, Other Persons)~~

    b. If the complaint is against an employee relating to child abuse, discrimination, racial, religious, or sexual harassment, or other activities involving an intimidating atmosphere, the complaint should be directed to the employee's supervisor or the executive director of human resources.

    c. Unresolved complaints from this section should be directed to the superintendent's office.

d. Complaints that are unresolved at the superintendent's level may be brought before the board by notifying the board in writing.

C. Open Forum

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

The board may decide to hold certain types of public meetings where the public will not be invited to address the board (e.g., work sessions, board retreats, special school board meetings). 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. Periodically, closed meetings may be held where attendance and speaking opportunities are not allowed.

Procedures listed above at VI.A. for agenda items are equally applicable to open forums.

D. In addition to directly addressing the board during the Hearing from Members of the Public agenda item, there are a number of alternative ways that members of the public may share feedback about the governance and operations of the ~~school~~ district. They include but are not limited to:

1. connecting directly with the school principal or program supervisor;

2. emailing the superintendent who will determine the most appropriate person who can best address the question/concerns;

3. emailing the board to share inputs or express concerns;

4. calling or emailing the superintendent's administrative assistant to inquire about providing input;

5. requesting a communication from the superintendent or appropriate district representative through the superintendent's administrative assistant; and

6. others as determined.

VII. Violations

A. A person who willfully violates data privacy laws or whose conduct constitutes the knowing unauthorized acquisition of not public data is guilty of a misdemeanor. ~~(Minn. Stat. § 13.09)~~

B. 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)~~

C. If a speaker violates any of the established procedures or engages in any prohibited conduct, the school board chair will rule the speaker out of order.

D. If repeated violations or disruptions occur, any of the following steps may be taken:

1. The board chair may require the speaker to immediately end their presentation.

2. If the speaker persists in violating any procedure or rule, the speaker will be directed to leave the premises and not return, a no trespass order may be issued, and a referral may be made to law enforcement.

3. The board chair may call a recess and order that the room be cleared.

4. Any board member may make a motion to immediately end the public comment period.

5. The board may vote to suspend public comment at meetings and to require that all public comments be in writing.

E. The school district will refer potential incidents of disorderly conduct to law enforcement. ~~(Minn. Stat. § 609.72)~~

Legal References

20 U.S.C. § 1232g	Family Educational Rights and Privacy Act
34 CFR Part 99	Family Educational Rights and Privacy
Minn. Stat. Ch. 13	Minnesota Government Data Practices Act
Minn. Stat. § 13.32	Educational Data
Minn. Stat. § 13.43	Personnel Data
Minn. Stat. § 13.601, subd. 3	Elected and Appointed Officials: Applicants for Appointment
Minn. Stat. § 13D.05	Meetings Having Data Classified as Not Public
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. § 122A.44	Contracting with Teachers; Substitute Teachers
Minn. Stat. § 123A.15	Establishing Education Districts
Minn. Stat. § 123A.30	Agreements for Secondary Education
Minn. Stat. § 123B.02, subd. 14	General Powers of Independent School Districts: Employees; Contracts for Services
Minn. Stat. § 123B.51, subd. 5	Schoolhouses and Sites; Uses for School and Nonschool Purposes: Closings: Schoolhouse Closing
Minn. Stat. Ch. 260E	Reporting of Maltreatment of Minors
Minn. Stat. Ch. 363A	Minnesota Human Rights Act
Minn. Stat. § 609.72	Disorderly Conduct
Minn. Op. Atty. Gen. No. 852 (July 14, 2006)	

Cross References

Policy 104	Complaints — Students, Employees, Parents, Other Persons
Policy 205	Open Meetings and Closed Meetings
Policy 406	Public and Private Personnel Data
Policy 515	Protection and Privacy of Student Records

Policy

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