

INDEPENDENT SCHOOL DISTRICT #877 POLICY

Buffalo-Hanover-Montrose

INDEX TITLE School Board **SERIES NO.** 200
Public Participation in School Board Meetings/
Complaints about Persons at School Board Meetings
POLICY TITLE and Data Privacy Considerations **CODE NO.** 206

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. Meetings of the board are conducted for the purpose of carrying on the business of the schools and, therefore, are not public meetings, but meetings held in public and open to the public.
- C. The school board controls its own meetings, agendas, parliamentary procedure, and all other aspects of its own business and function, Minn. Stat. 123B.09, Subd. 7.
- D. The purpose of this policy is to provide procedures 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 discussion by persons of subjects related to the management of the school district at school board meetings. The school board may adopt reasonable time, place and manner restrictions on public expression in order to facilitate free discussion 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 data on individuals collected 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; 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; 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 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, 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 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. § 626.556 (Reporting of Maltreatment of Minors) and Minn. Stat. Ch. 363 (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 by the school board, within the limits of the law and this policy and subject to reasonable time, place and manner restrictions **that the school board shall establish in a public comment period procedure.** ~~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).~~

- ~~A. The school board chair 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.~~
- ~~B. 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.~~
- ~~C. Depending upon the number of persons in attendance seeking to be heard, the school 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.~~
- ~~D. The school board chair will recognize one speaker at a time, and will rule out of order other speakers who are not recognized. Only those speakers recognized by the chair will be allowed to speak. Comments by others are out of order. Individuals who interfere with or interrupt speakers, the school board, or the proceedings may be directed to leave.~~

VI. PROCEDURES FOR REQUESTING TO ADDRESS BOARD

A. Agenda Items

1. Persons who wish to have a subject discussed at a public school Board meeting are encouraged to notify the superintendent's office in advance of the school board meeting. The person should provide his or her name, address, the name of group represented (if any), and the subject to be covered or the issue to be addressed. As per policy 203.5, the board chair and superintendent shall determine whether to place the subject on the agenda.
2. Matters proposed for placement on the agenda which may involve data privacy concerns, 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.

B. Public Comment Regarding Agenda Items

1. Board chair will, at the request of other board members or at his or her discretion, open the board meeting for public comment regarding the agenda item being discussed.
2. This action to open the meeting to public comment will take place after a motion is made and seconded regarding the agenda item.
3. Public comment is for input only and not a question-answer or dialogue time period.
4. Board chair will close the public comment period and reinstate rules of order.
5. Discussion of the agenda item will then be the prerogative of the school board and administration.
6. The school board retains the discretion to limit discussion of any agenda item to a reasonable period of time as determined by the school board. 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 or more representatives or spokespersons to speak on behalf of the group or organization.

C. Public Comment

While Minnesota's Open Meeting Law does not require a public comment period during a school board meeting, the school board has elected to provide a public comment period before a regular board meeting where persons may address the school board subject to the limitations of this procedure.

In addition to the public comment period, individuals may share their views with the school district and the school board in many other ways. These options include written correspondence, telephone calls and meetings.

The school board may decide to hold certain types of public meetings during which the public will not be invited to address the school board on matters of school district operations or interest. Possible examples are work sessions and board retreats. The public will receive notice of these meetings and will be allowed to attend these meetings, but a public comment period will not be provided.

To facilitate public comment and to maintain a forum in which the school board can complete school district business, the school board establishes a public comment procedure. This procedure will be available on the school district website and in the school board meeting room. The school board chair may also review the public comment procedure before the public comment period.

By participating in the public comment period, each speaker agrees to abide by this public comment procedure.

To allow as many people as possible to participate in the public comment period, the school board will listen carefully to each speaker, but will not engage in discussion, during the public comment period. The school board will not take action at the same meeting on an item raised for the first time during the public comment period.

Depending upon the number of persons in attendance seeking to speak during the public comment period, the school board reserves the right to impose such other limitations and restrictions as necessary to provide an orderly, efficient, and fair opportunity for those present to participate in the public comment period.

1. School Board members will hold a Public Comment Session prior to the start of each Regular Board Meeting from 6:30–6:50 p.m. This time is for citizens who wish to address the board regarding a subject that may or may not be on the Regular Board Agenda. A maximum of 2 minutes will be allowed for each speaker and the session will be limited to 10 speakers.

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 provide a response.

2. To be recognized, citizens must sign up on the Public Comment Session google document no later than 12:00 pm, on the day of the corresponding board meeting. **Unless otherwise posted, the Google form will be open beginning Friday at 9 a.m. before every Board meeting and close by 12 p.m. the day of the Board meeting. Speakers will be notified by email by 3 p.m. with their two-minute time slot between 6:30 and 6:50 p.m.** (The start and end time for the 20-minute session will fall within this window.) If you do not receive an email with a time slot, then you have not been slated to speak at the Public Comment Session. You are invited to email Board members to share comments or concerns at schoolboard@bhmschools.org
3. If more than 10 individuals register to speak at the Public Comment session, the Board will select speakers with priority given to the following individuals: BHM students, BHM parents, district residents, and district staff. Priority will also be given to individuals who have not addressed the Board in two previous meetings, and whose topic is on that evening's School Board Agenda. If more than 10 individuals who meet these criteria request to speak, a random selection process will be used.
4. Speakers must provide, on the document, their name, address, topic to which they are speaking, their relationship to the district and their email. Speakers may provide phone numbers, if they choose.
5. In order to speak, the citizen must meet one of the following connections to the district: resident of the district, family member/guardian of a student in the district, or local taxpayer of the district.
6. The school board will recognize one speaker at a time, and will rule out of order other speakers who are not recognized. 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 members, or the proceedings may be directed to leave.
7. The school board retains the discretion to limit each speaker to a reasonable period of time as determined by the school board. 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 or more representatives or spokespersons to speak on behalf of the group or organization.
8. Matters proposed for placement on the agenda which may involve data privacy concerns, 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.

9. 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.

10. 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.

~~1. Persons wishing to address the board on any subject, to include agenda items, may do so during Agenda Item "Public Comment".~~

~~2. Individual remarks will be limited to a maximum of 5 minutes or less depending upon the number of people wishing to address the board.~~

~~3. The comment segment of the meeting is not intended to be a time for debate.~~

~~4. Issues newly raised in remarks may be acted upon at a subsequent board meeting, not the meeting at which they are raised.~~

D. Complaints

1. Routine complaints about a teacher or other employee should first be directed to that teacher or employee or to the employee's immediate supervisor.
2. 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 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.
3. Unresolved complaints from Paragraph 1. of this section or problems concerning the school district should be directed to the superintendent's office.
4. Complaints which are unresolved at the superintendent's level may be brought before the school board by notifying the school board in writing.

E. No Board Action at Same Meeting

Except as determined by the school board to be necessary or in an emergency, the school board will not take action at the same meeting on an item raised for the first time by the public.

VII. 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)
Minn. Stat. § 121A.47, Subd. 5 (Student dismissal hearing)
Minn. Stat. § 122A.33, Subd. 3 (Coaches; Opportunity to Respond)
Minn. Stat. § 122A.40 Subd. 14 (Teacher discharge hearing)
Minn. Stat. § 122A.44 (Contracting with teachers)
Minn. Stat. § 123B.02, Subd. 14 (Employees; contracts for services)
Minn. Stat. § 123B.143, Subd. 2 (Disclose Past Buyouts or Contract is Void)
Minn. Stat. Ch. 363A (Minnesota Human Rights Act)
Minn. Stat. § 626.556 (Reporting of Maltreatment of Minors)
20 U.S.C. § 1232g (Family Educational Rights and Privacy Act)
Minn. Op. Atty. Gen. No. 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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