

## **Work Session**

Monday, August 23, 2021 7:00 PM

Laketown Elementary - Media Center, 960 Airport Rd, Waconia, MN 55387

### **1. Superintendent Updates**

**Presenter:** Pat  
Devine,  
Superintendent

1.A. Enrollment - SWMetro

1.B. WMS Gym Floor

1.C. Sand Peat Fields

1.D. Welcome Back

- Start of School
- Open House

1.E. Tennis Coach

1.F. ESP Openings

### **2. Discuss Employment of School Board Members**

### **3. 206 Public Participation in School Board Meetings**

**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 discussion 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 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 government data on individuals maintained 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; 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 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. 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**

### **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.

2. Persons who wish to address the school board on a particular subject should identify the subject and identify agenda item(s) to which their comments pertain.
3. 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.
4. 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.
5. 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.
6. 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.
7. 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.
8. 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.

B. 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.

C. Open Forum

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

The school board may decide to hold certain types of public meetings where the public will not be invited to address the school board. Possible examples are work sessions and board retreats. 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.

D. 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. 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)

Board Policy Adopted April 14, 1997

Revised: November 12, 2001, April 11, 2005, July 2007, April 2009, June 2011, November 2012, August 2015, November 2019

Independent School District No. 110  
Waconia, MN

## **TIME, PLACE, AND MANNER RESTRICTIONS AND PROCEDURES FOR PUBLIC SCHOOL BOARD MEETINGS AND PUBLIC COMMENTS**

**Welcome.** The School Board welcomes input from community members, including letters, emails, and phone calls. For those who prefer to address the School Board directly, the School Board typically sets aside up to thirty minutes for public comment at regular School Board meetings, but not at study sessions or special meetings. Time for public comment at regular School Board meetings is not a requirement of the law; it is something the School Board chooses to provide. The School Board would like to provide the community with some general information about public comment sessions, including the purpose of a public comment session, the procedures that apply, and prohibited conduct.

**Purpose.** The purpose of a public comment period is to give community members an opportunity to provide input directly to the School Board about issues that fall within the School Board's authority. To fulfill this purpose, comments must be directed to the School Board. Public comment is not a time for citizens to speak to the community or to the audience. For this reason, public comment sessions will not be recorded or livestreamed.

**Written Request to Speak.** Individuals who want to speak during a public comment session must submit a written request to speak before 3:00 p.m. on the day of the School Board meeting. Requests must be submitted by email to the following email address: \_\_\_\_\_.

- The written request must state: (1) the individual's name, (2) the individual's home address, (3) whether the individual has a child attending school in the District, (4) whether the individual is employed by the District, and (5) the agenda item, if any, that the individual wishes to discuss during the public comment period.
- In the event that more than ten individuals submit a written request to speak during the public comment session, the School Board will give first priority to individuals who reside in the District, have a child attending school in the District, or are employed by the District. The School Board will give second priority to individuals who wish to address a specific item that is on the agenda for that meeting. After these priorities have been applied, any remaining openings to speak – up to the total of ten individuals – will be determined by lot.

**Speakers Must Be Recognized.** The School Board Chair will call speakers to the microphone and will recognize one speaker at a time. Only those individuals who have been recognized by the School Board Chair will be allowed to speak during the public comment period. The School Board Chair will rule out of order individuals who have not been recognized.

**Time Limits.** The public comment period will be held open for up to thirty (30) minutes in total. This time limit is necessary in order to ensure that the School Board is able to conduct its business during the meeting in an orderly, efficient, and timely fashion. Each speaker is permitted to speak for up to three (3) minutes in total. One speaker may not give time to another speaker. Any person who does not get a chance to speak is encouraged to submit written

comments to the School Board. Email addresses for School Board members are listed on the District's website.

**Cumulative Presentations.** Speakers are encouraged to avoid repeating comments that other speakers have made. Redundant presentations are not helpful and can deprive other individuals of the opportunity to speak during the public comment session.

**Prohibited Conduct.** The following conduct is prohibited during a public School Board meeting, including during the public comment period:

- Speakers may not discuss or disclose any private educational data on any current or former student as defined in Minnesota Statutes section 13.32. As a result, speakers may not identify any current or former student during public comment. The only exception is that a parent who is speaking may choose to discuss private educational data on his or her own child.
- Speakers may not make allegations, charges, or complaints against any student or employee. If a person wishes to make an allegation or to file a charge or complaint against a student or employee, the person should make the allegation, charge, or complaint to the Superintendent in writing or in a private meeting, or to the individual designated in District policy to receive the allegation, charge, or complaint.
- Speakers may not make comments or gestures that are threatening, profane, lewd, vulgar, obscene, harassing, or abusive.
- Speakers may not make personal attacks against others, including, but not limited to, any student, parent, community member, employee, or School Board member.
- Speakers may not make comments that would violate federal or state law, including laws protecting the privacy rights of an individual.
- Speakers may not make comments related to pending contract negotiations or to pending litigation to which the District is a party, including grievance proceedings.
- Speakers may not campaign for or against a political candidate during any part of a public school board meeting.
- Speakers may not promote or advertise products that are for sale or purchase, unless the Board has invited the speaker to present on the product as an agenda item.
- Members of the public may not engage in conduct that materially and substantially disrupts any part of a School Board meeting, or that otherwise impedes the School Board's ability to conduct its business in an orderly and efficient fashion. The following are examples of conduct that is materially and substantially disruptive or that otherwise

impedes the School Board's ability to conduct its business in an orderly and efficient fashion:

- Making comments that incite violence;
- Making comments that reasonably instill fear;
- Interrupting a speaker who has been recognized by the School Board Chair;
- Making comments from the audience when the person making comments has not been recognized by the School Board Chair;
- Interrupting the School Board Chair or any other School Board member or school official who is speaking;
- Holding up a sign or displaying a banner, regardless of the content of the sign or banner;
- Clapping, cheering, booing, vocalizing approval, or vocalizing disapproval for a speaker during the speaker's presentation, unless a School Board member or school official is presenting an award to a person or is describing an honor or award that a person received;
- Addressing the audience rather than the School Board;
- Bringing a weapon into the meeting room or onto school property, except as allowed under Minnesota law;
- Violating room capacity requirements; and
- Violating any law or District policy.

**Violations.** If a speaker violates any of established procedure or engages in any prohibited conduct, the Board Chair will rule the speaker out of order.

- If the speaker is presenting to the School Board, the Board Chair may require the speaker to immediately end his or her presentation.
- If the speaker persists in violating any procedure or rule, the speaker will be directed to leave the premises and not to return, a no trespass order may be issued, and a referral may be made to law enforcement.
- If repeated disruptions occur during the public comment period, the School Board Chair may call a recess and order that the room be cleared until the meeting resumes.

- If repeated disruptions occur, any School Board member may make a motion to immediately end the public comment period. If the motion passes, citizens may use alternative avenues of communication to share their views with the School Board, including written communications.
- If repeated disruptions occur during multiple meetings, the School Board may vote to suspend public comment at meetings and to require that all public comments be in writing.

**Disorderly Conduct.** The District will refer potential incidents of disorderly conduct to law enforcement. Minnesota Statutes section 609.72 states:

Whoever does any of the following in a public or private place . . . knowing, or having reasonable grounds to know that it will, or will tend to, alarm, anger or disturb others or provoke an assault or breach of the peace, is guilty of disorderly conduct, which is a misdemeanor:

\* \* \* \* \*

(3) engages in offensive, obscene, abusive, boisterous, or noisy conduct or in offensive, obscene, or abusive language tending reasonably to arouse alarm, anger, or resentment in others.

**Superintendent Response After Public Comment.** Following public comments, the School Board Chair may ask the Superintendent or a designee to respond or provide clarifying information to the School Board. As a general matter, the School Board will not act on any comments that were made during a meeting and do not relate directly to an agenda item for the meeting.

**Use of School Property.** All property of the District, including District parking lots and other grounds, are considered to be school property. Individuals or groups may not use school property for any purpose that has not been authorized by the District. Any use of school property must comply with District Policy 902 and all administrative procedures related to that policy.

4. **Safe Learning Plan - Preparedness Document**

5. **Finance Update**

6. **School Board Meeting Protocols**