

Technical Academies of Minnesota

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**202 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. It is the policy of the School Board to encourage discussion by citizens of subjects related to the management of the 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 providing services to the school. For purposes of this policy, "employee" includes a volunteer, a contracted employee, and a member of an advisory board.
- B. Personnel data on current and former employees that is "public" includes:
 - 1. Name; employee identification number, which must not be the 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 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 terms of any agreement settling any dispute arising out of the employment relationship, including a staff member buyout agreement, 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; a 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. "Educational data" means data maintained by the District which relates to a student.
- D. "Student" means an individual currently or formerly enrolled or registered in the District, or applicants for enrollment, or individuals who receive shared time services.
- E. Data on applicants for election or appointment to a public body, including a School Board member, are public. That data includes: name; city of residence; education and training; employment history; volunteer work; awards and honors, and prior government service or experience. Other data on applicants are classified as private personnel.

IV. RIGHTS TO PRIVACY

- A. District teachers 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 coaches to discuss reasons for nonrenewal 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 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 citizens of the District 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. Citizens who wish to have a subject discussed at a public School Board meeting are encouraged to notify the Board Chairperson in advance of the School Board meeting. The citizen should provide his or her name, address, the name of the group represented (if any), and the subject to be covered or the issue to be addressed.
2. Citizens who wish to address the School Board on a particular subject. They should identify the subject and identify agenda item(s) to which their comments pertain.
3. The Board Chairperson 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 Chairperson 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 Board Chairperson 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 staff member or other employee should first be directed to the Convener (and eventually the Personnel Committee). Depending on the severity of the complaint and the result of the investigation and improvement plan, it will be forwarded to the Board Chairperson and then to the Director.
2. If the complaint is against a staff member relating to child abuse, discrimination, racial, religious, or sexual harassment, or other activities involving an intimidating atmosphere, the complaint should be directed to the Board Chairperson, who in consultation with the Convener/Personnel Committee and will make recommendations to deal with the complaint.
3. Unresolved complaints from paragraph 1 of this section or problems concerning the District should be directed to the School Board.
4. Complaints which are unresolved at the Board Chairperson's level may be brought before the School Board by notifying the School Board in writing requesting placement on the School Board agenda.

C. Open Forum

The School Board shall normally provide a specified period of time where citizens 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.

VII. PENALTIES FOR VIOLATION OF DATA PRIVACY

- A. The 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. In the case of an employee, willful violation 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. § 121A.47, Subd. 5 (Student Dismissal Hearing)
Minn. Stat. § 122A.33, Subd. 3 (Coaches; Opportunity to Respond) Minn.
Stat. § 1224.40, Subd. 14 (Teacher Discharge Hearing)
Minn. Stat. § 122A.44 (Contracting with Teachers)
Minn. Stat. § 123B.02, Subd. 14 (Employees; Contracts for Services)
Minn. Stat. Ch. 363A (Minnesota Human Rights Act)
Minn. Stat. § 13D.05 (Open Meeting Law)
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) guilty of a misdemeanor. (Minn.
Stat. § 13.09)