

Art and Science Academy

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

I. Purpose

1. The school district recognizes the value of participation by the public in deliberations and decisions on 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.
2. This policy provides procedures to ensure 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

1. 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.
2. The board must protect the legal rights to privacy and due process of employees and students.

III. The Public's Opportunity to Be Heard

The school board will strive to give all community members 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. 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; 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).
- 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.

V. 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);
- 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).

VI. The Public’s Opportunity to be Heard

The School Board will strive to give all citizens of the School 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.

VII. PROCEDURES

A. Agenda Items

1. Citizens who wish to have a subject discussed at an ASA school board meeting are encouraged to notify the Board Secretary in advance of the School Board meeting. The citizen 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. Citizens 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. Each registered speaker will have up to three minutes in which to address 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 to provide an orderly and fair opportunity for those present to be heard.
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.

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 the school Executive

Director. In the absence of a designated person, the matter should be referred to the Board Chair or Board Secretary.

3. Unresolved complaints from Paragraph 1 of this section or problems concerning the school district should be directed to the Executive Director. In the absence of a designated person, the matter should be referred to the Board Chair or Board Secretary.
4. Complaints which are unresolved at the Executive Director'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 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.

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.

VIII. 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.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)

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