

Policy 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" is determined by Policy 406.
- C. Personnel data on current and former applicants for employment that is "public" is determined by Policy 406.
- 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.

- G. “District resident” is someone who officially resides within the Northfield Public Schools boundaries. It also includes a student and/or parent who attend Northfield Public Schools through an open enrollment or non-resident agreement.

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 district residents 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. 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.

B. Public Comment

The school board shall normally provide a specified period of time when district residents 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 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.

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.

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.

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.

C. 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)

Policy 206 Public Participation in School Board Meetings/Complaints About Persons at School Board Meetings and Data Privacy Considerations

Adopted: 07.01.19

School Board

INDEPENDENT SCHOOL DISTRICT 659

Northfield, Minnesota

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)