

Adopted: \_\_\_\_\_

MSBA/MASA Model Policy 201

Orig. 1995

Revised: \_\_\_\_\_

Rev. 2022

## **201 LEGAL STATUS OF THE SCHOOL BOARD**

### **I. PURPOSE**

The care, management, and control of the schools is vested by statutory and constitutional authority in the school board. The school board shall carry out the mission of the school district with diligence, prudence, and dedication to the ideals of providing the finest public education. The purpose of this policy is to define the authority, duties, and powers of the school board in carrying out its mission.

### **II. GENERAL STATEMENT OF POLICY**

- A. The school board is the governing body of the school district. As such, the school board has responsibility for the care, management, and control over public schools in the school district.
- B. Generally, elected members of the school board have binding authority only when acting as a school board legally in session, except where specific authority is provided to school board members or officers individually. Generally, the school board is not bound by an action or statement on the part of an individual school board member unless the action is specifically directed or authorized by the school board.

### **III. DEFINITION**

“School board” means the governing body of the school district.

### **IV. ORGANIZATION AND MEMBERSHIP**

- A. The membership of the school board consists of six elected directors, or seven if the school board has submitted the question to the electors and a majority have approved a seven-member school board. The term of office is four years.

***[Note: This number may be different for combining or consolidating school boards that are in a transition period.]***

- B. There may be other ex officio members of the school board as provided by law. The superintendent is an ex officio member.
- C. A majority of voting members constitutes a quorum. The act of the majority of a quorum is the act of the school board.

### **V. POWERS AND DUTIES**

- A. The school board has powers and duties specified by statute. The school board’s authority includes implied powers in addition to specific powers granted by the legislature.
- B. The school board exercises administrative functions. It also has certain powers of a legislative character and other powers of a quasi-judicial character.

- C. The school board shall superintend and manage the schools of the school district; adopt rules for their organization, government, and instruction; prescribe textbooks and courses of study; and make and authorize contracts.
- D. The school board shall have the general charge of the business of the school district, its facilities and property, and of the interest of the schools.
- E. The school board, among other duties, shall perform the following in accordance with applicable law:
  - 1. provide by levy of tax, necessary funds for the conduct of schools, the payment of indebtedness, and all proper expenses of the school district;
  - 2. conduct the business of the schools and pay indebtedness and proper expenses;
  - 3. employ and contract with necessary qualified teachers and discharge the same for cause;
  - 4. provide services to promote the health of its pupils;
  - 5. provide school buildings and erect needed buildings;
  - 6. purchase, sell, and exchange school district property and equipment as deemed necessary by the school board for school purposes;
  - 7. provide for payment of claims against the school district, and prosecute and defend actions by or against the school district, in all proper cases;
  - 8. employ and discharge necessary employees and contract for other services;
  - 9. provide for transportation of pupils to and from school, as governed by statute; and
  - 10. procure insurance against liability of the school district, its officers, and employees.
- F. The school board, at its discretion, may perform the following:
  - 1. provide library facilities, public evening schools, adult and continuing education programs, summer school programs, and intersession classes of flexible school year programs;
  - 2. furnish school lunches for pupils and teachers on such terms as the school board determines;
  - 3. enter into agreements with one or more other independent school districts to provide for agreed upon educational services;
  - 4. lease rooms or buildings for school purposes;
  - 5. authorize the use of school facilities for community purposes that will not interfere with their use for school purposes;
  - 6. authorize cocurricular and extracurricular activities;

7. receive, for the benefit of the school district, bequests, donations, or gifts for any proper purpose; and
8. perform other acts as the school board shall deem to be reasonably necessary or required for the governance of the schools.

**Legal References:** Minn. Stat. § 123A.22 (Cooperative Centers for Vocational Education)  
Minn. Stat. § 123B.02 (General Powers of Independent School Districts)  
Minn. Stat. § 123B.09 (Boards of Independent School Districts)  
Minn. Stat. § 123B.14 (Officers of Independent School Districts)  
Minn. Stat. § 123B.23 (Liability Insurance; Officers and Employees)  
Minn. Stat. § 123B.49 (Extracurricular Activities; Insurance)  
Minn. Stat. § 123B.51 (Schoolhouses and Sites; Uses for School and Nonschool Purposes; Closings)  
Minn. Stat. § 123B.85 (Definitions)  
*Jensen v. Indep. Consol. Sch. Dist. No. 85*, 160 Minn. 233 (1924)

**Cross References:** MSBA/MASA Model Policy 101 (Legal Status of the School District)  
MSBA/MASA Model Policy 202 (School Board Officers)  
MSBA/MASA Model Policy 203 (Operation of the School Board -Governing Rules)  
MSBA/MASA Model Policy 205 (Open Meetings and Closed Meetings)



Adopted: \_\_\_\_\_

MSBA/MASA Model Policy 202

Orig. 1995

Revised: \_\_\_\_\_

Rev. 2022

## **202 SCHOOL BOARD OFFICERS**

### **I. PURPOSE**

School board officers are charged with the duty of carrying out the responsibilities entrusted to them for the care, management, and control of the public schools of the school district. The purpose of this policy is to delineate those responsibilities.

### **II. GENERAL STATEMENT OF POLICY**

- A. The school board shall meet annually and organize by selecting a chair, a clerk, a treasurer, and such other officers as determined by the school board. At its option, the school board may appoint a vice-chair to serve in the temporary absence of the chair.
- B. The school board shall appoint a superintendent who shall be an ex officio, nonvoting member of the school board.

### **III. ORGANIZATION**

The school board shall meet annually on the first Monday in January, or as soon thereafter as practicable, and organize by selecting a chair, a clerk, a treasurer, and such other officers as determined by the school board. These officers shall hold office for one year and until their successors are elected and qualify.

- A. The persons who perform the duties of clerk and treasurer need not be members of the school board.
- B. The school board by resolution may combine the duties of the offices of clerk and treasurer in a single person in the office of business affairs.

### **IV. OFFICER'S RESPONSIBILITIES**

#### **A. Chair**

- 1. The chair when present shall preside at all meetings of the school board, countersign all orders upon the treasurer for claims allowed by the school board, represent the school district in all actions, and perform all duties a chair usually performs.
- 2. In case of absence, inability, or refusal of the clerk to draw orders for the payment of money authorized by a vote of the majority of the school board to be paid, the chair may draw the orders, or the office of the clerk may be declared vacant by the chair and treasurer and filled by appointment.

#### **B. Treasurer**

- 1. The treasurer shall deposit the funds of the school district in the official depository.
- 2. The treasurer shall make all reports which may be called for by the school board and perform all duties a treasurer usually performs.

3. In the event there are insufficient funds on hand to pay valid orders presented to the treasurer, the treasurer shall receive, endorse, and process the orders in accordance with Minnesota Statutes section 123B.12.

C. Clerk

1. The clerk shall keep a record of all meetings in the books provided.
2. Within three days after an election, the clerk shall notify all persons elected of their election.
3. On or before September 15 of each year, the clerk shall:
  - a. file with the school board a report of the revenues, expenditures, and balances in each fund for the preceding fiscal year.
  - b. make and transmit to the Commissioner of the Minnesota Department of Education (Commissioner) certified reports, showing:
    - (1) revenues and expenditures in detail, and such other financial information required by law, rule, or as may be called for by the Commissioner;
    - (2) length of school term and enrollment and attendance by grades; and
    - (3) other items of information as called for by the commissioner.
4. The clerk shall enter into the clerk's record book copies of all reports and of the teachers' term reports, and of the proceedings of any meeting, and keep an itemized account of all expenses of the school district.
5. The clerk shall furnish to the county auditor, on or before September 30 of each year, an attested copy of the clerk's record, showing the amount of proposed property tax voted by the school district or the school board for school purposes.
6. The clerk shall draw and sign all orders upon the treasurer for the payment of money for bills allowed by the school board for salaries of officers and for teachers' wages and all claims, to be countersigned by the chair.
7. The clerk shall perform such duties as required by the Minnesota Election Law or other applicable laws relating to the conduct of elections.
8. The clerk shall perform the duties of the chair in the event of the chair's and the vice-chair's temporary absences.

D. Vice-Chair [Optional]

The vice-chair shall perform the duties of the chair in the event of the chair's temporary absence.

E. Superintendent

1. The superintendent shall be an ex officio, nonvoting member of the school board.
2. The superintendent shall perform the following:
  - a. visit and supervise the schools in the school district, report and make recommendations about their condition when advisable or on request by the school board;
  - b. recommend to the school board employment and dismissal of teachers;
  - c. annually evaluate each school principal assigned responsibility for supervising a school building within the district;
  - d. superintend school grading practices and examinations for promotions;
  - e. make reports required by the commissioner; and
  - f. perform other duties prescribed by the school board.

**Legal References:** Minn. Stat. § 123B.12 (Insufficient Funds to Pay Orders)  
Minn. Stat. § 123B.14 (Officers of Independent School Districts)  
Minn. Stat. § 123B.143 (Superintendent)  
Minn. Stat. § 126C.17 (Referendum Revenue)  
Minn. Stat. Ch. 205A (School District Elections)

**Cross References:** MSBA/MASA Model Policy 101 (Legal Status of the School District)  
MSBA/MASA Model Policy 201 (Legal Status of the School Board)  
MSBA/MASA Model Policy 203 (Operation of the School Board – Governing Rules)





Adopted: \_\_\_\_\_

MSBA/MASA Model Policy 204

Orig. 1995

Revised: \_\_\_\_\_

Rev. 2022

## **204 SCHOOL BOARD MEETING MINUTES**

### **I. PURPOSE**

The purpose of this policy is to establish procedures relating to the maintenance of records of the school board and the publication of its official proceedings.

### **II. GENERAL STATEMENT OF POLICY**

It is the policy of the school district to maintain its records so that they will be available for inspection by members of the general public and to provide for the publication of its official proceedings in compliance with law.

### **III. MAINTENANCE OF MINUTES AND RECORDS**

A. The clerk shall keep and maintain permanent records of the school board, including records of the minutes of school board meetings and other required records of the school board. All votes taken at meetings required to be open to the public pursuant to the Minnesota Open Meeting Law must be recorded in a journal or minutes kept for that purpose. Public records maintained by the school district must be available for inspection by members of the public during the regular business hours of the school district. Minutes of meetings shall be available for inspection at the administrative offices of the school district after they have been prepared. Minutes of a school board meeting shall be approved or modified by the school board at a subsequent meeting, which action shall be reflected in the official proceedings of that subsequent meeting.

#### **B. Recordings of Closed Meetings**

1. All closed meetings, except those closed as permitted by the attorney-client privilege, must be electronically recorded at the school district's expense. Recordings of closed meetings shall be made separately from the recordings of an open meeting to the extent such meetings are recorded. If a meeting is closed to discuss more than one (1) matter, each matter shall be separately recorded.
2. Recordings of closed meetings shall be preserved by the school district for the following time periods:
  - a. Meetings closed to discuss labor negotiations strategy shall be preserved for two (2) years after the contract is signed.
  - b. Meetings closed to discuss security matters shall be preserved for at least four (4) years.
  - c. Meetings closed to discuss the purchase or sale of property shall be preserved for at least eight (8) years after the date of the meeting.
  - d. All other closed meetings shall be preserved by the school district for at least three (3) years after the date of the meeting.
  - e. Following the expiration of the above time periods, recordings of closed

meetings shall be maintained as set forth in the school district's Records Retention Schedule.

3. Recordings of closed meetings shall be classified by the school district as protected non-public data that is not accessible by the public or any subject of the data, with the following exceptions:
  - a. Recordings of labor negotiations strategy meetings shall be classified as public data and made available to the public after all labor contracts are signed by the school district for the current budget period.
  - b. Recordings of meetings related to the purchase or sale of property shall be classified as public data and made available to the public after all real or personal property discussed at the meeting has been purchased or sold or the school district has abandoned the purchase or sale.
  - c. Recordings of any other closed meetings shall be classified and/or released as required by court order.
4. Recordings of closed meetings shall be maintained separately from recordings of open meetings, to the extent recordings of open meetings are maintained by the school district, with the exception of recordings that have been classified as public data as set forth in Section III.B.3. above. Recordings of closed meetings classified as non-public data also shall be maintained in a secure location, separate from recordings classified as public data.
5. Recordings of closed meetings shall be maintained in a manner to easily identify the data classification of the recording. The recordings shall be identified with at least the following information:
  - a. The date of the closed meeting;
  - b. The basis upon which the meeting was closed (i.e.: labor negotiations strategy, purchase or sale of real property, educational data, etc.); and
  - c. The classification of the data.
6. Recordings of closed meetings related to labor negotiations strategy and the purchase or sale of property shall be maintained and monitored in a manner that reclassifies the recording as public upon the occurrence of an event reclassifying that data as set forth in Section III.B.3. above.

#### **IV. PUBLICATION OF OFFICIAL PROCEEDINGS**

- A. The school board shall cause its official proceedings to be published once in the official newspaper of the school district within thirty (30) days of the meeting at which the proceedings occurred; however, if the school board conducts regular meetings not more than once every thirty (30) days, the school board need not publish the minutes until ten (10) days after they have been approved by the school board.
- B. The proceedings to be published shall be sufficiently full to fairly set forth the proceedings. They must include the substance of all official actions taken by the school board at any regular or special meeting, and at minimum must include the subject matter of a motion, the persons making and seconding the motion, a listing of how each member present voted on the motion, the character of resolutions offered including a brief description of their subject matter and whether adopted or defeated. The minutes and permanent records of the school board may include more detail than is required to be published with the official proceedings. If the proceedings have not yet been

approved by the school board, the proceedings to be published may reflect that fact.

- C. The proceedings to be published may be a summary of the essential elements of the proceedings, and/or of resolutions and other official actions of the school board. Such a summary shall be written in a clear and coherent manner and shall, to the extent possible, avoid the use of technical or legal terms not generally familiar to the public. When a summary is published, the publication shall clearly indicate that the published material is only a summary and that the full text is available for public inspection at the administrative offices of the school district and that a copy of the proceedings, other than attachments to the minutes, is available without cost at the offices of the school district or by means of standard or electronic mail.

**Legal References:** Minn. Stat. § 13D.01, Subds. 4-6 (Open Meeting Law)  
Minn. Stat. § 123B.09, Subd. 10 (Boards of Independent School Districts)  
Minn. Stat. § 123B.14, Subd. 7 (Officers of Independent School Districts)  
Minn. Stat. § 331A.01 (Definitions)  
Minn. Stat. § 331A.05, Subd. 8 (Form of Public Notices)  
Minn. Stat. § 331A.08, Subd. 3 (Computation of Time)  
Op. Atty. Gen. 161-a-20, December 17, 1970  
*Ketterer v. Independent School District No. 1*, 248 Minn. 212, 79 N.W.2d 428 (1956)

**Cross References:** MSBA/MASA Model Policy 205 (Open Meetings and Closed Meetings)



Adopted: \_\_\_\_\_

MSBA/MASA Model Policy 205

Orig. 1995

Revised: \_\_\_\_\_

Rev. 2022

## **205 OPEN MEETINGS AND CLOSED MEETINGS**

### **I. PURPOSE**

- A. The school board embraces accountability and transparency in the conduct of its business, in the belief that openness produces better programs, more efficient administration of programs, and an organization more responsive to public interest and less susceptible to private interest. The school board shall conduct its business under a presumption of openness. At the same time, the school board recognizes and respects the privacy rights of individuals as provided by law. The school board also recognizes that there are certain exceptions to the Minnesota Open Meeting Law as recognized in statute where it has been determined that, in limited circumstances, the public interest is best served by closing a meeting of the school board.
- B. The purpose of this policy is to provide guidelines to assure the rights of the public to be present at school board meetings, while also protecting an individual's rights to privacy under law, and to close meetings when the public interest so requires as recognized by law.

### **II. GENERAL STATEMENT OF POLICY**

- A. Except as otherwise expressly provided by statute, all meetings of the school board, including executive sessions, shall be open to the public.
- B. Meetings shall be closed only when expressly authorized by law.

### **III. DEFINITION**

"Meeting" means a gathering of at least a quorum of school board members-or quorum of a committee or subcommittee of school board members, at which members discuss, decide, or receive information as a group on issues relating to the official business of the school board. The term does not include a chance or social gathering or the use of social media by members of a public body so long as the social media use is limited to exchanges with all members of the general public. For purposes of the Open Meeting Law, social media does not include e-mail.

### **IV. PROCEDURES**

#### A. Meetings

##### 1. Regular Meetings

A schedule of the regular meetings of the school board shall be kept on file at the school district office. If the school board decides to hold a regular meeting at a time or place different from the time or place stated in its regular meeting schedule, it shall give the same notice of the meeting as for a special meeting.

##### 2. Special Meetings

- a. For a special meeting, the school board shall post written notice of the

date, time, place, and purpose of the meeting on the principal bulletin board of the school district or on the door of the school board's usual meeting room if there is no principal bulletin board. The school board's actions at the special meeting are limited to those topics included in the notice.

- b. The notice shall also be mailed or otherwise delivered to each person who has filed a written request for notice of special meetings. This notice shall be posted and mailed or delivered at least three days before the date of the meeting.
- c. As an alternative to mailing or otherwise delivering notice to persons who have filed a written request, the school board may publish the notice once, at least three days before the meeting, in the official newspaper of the school district or, if none, in a qualified newspaper of general circulation within the area of the school district.
- d. A person filing a request for notice of special meetings may limit the request to particular subjects, in which case the school board is required to send notice to that person only concerning those particular subjects.
- e. The school board will establish an expiration date on requests for notice of special meetings and require refiling once each year. Not more than sixty (60) days before the expiration date of request for notice, the school board shall send notice of the refiling requirement to each person who filed during the preceding year.

3. Emergency Meetings

- a. An emergency meeting is a special meeting called because of circumstances that, in the school board's judgment, require immediate consideration.
- b. If matters not directly related to the emergency are discussed or acted upon, the minutes of the meeting shall include a specific description of those matters.
- c. The school board shall make good faith efforts to provide notice of the emergency meeting to each news medium that has filed a written request for notice if the request includes the news medium's telephone number.
- d. Notice of the emergency meeting shall be given by telephone or any other method used to notify the members of the school board.
- e. Notice shall be provided to each news medium which has filed a written request for notice as soon as reasonably practicable after notice has been given to the school board members.
- f. Notice shall include the subject of the meeting.
- g. Posted or published notice of an emergency meeting shall not be required.

h. The notice requirements for an emergency meeting as set forth in this policy shall supersede any other statutory notice requirement for a special meeting that is an emergency meeting.

4. Recessed or Continued Meetings

If a meeting is a recessed or continued session of a previous meeting, and the time and place of the meeting was established during the previous meeting and recorded in the minutes of that meeting, then no further published or mailed notice is necessary.

5. Closed Meetings

The notice requirements of the Minnesota Open Meeting Law apply to closed meetings.

6. Actual Notice

If a person receives actual notice of a meeting of the school board at least twenty-four (24) hours before the meeting, all notice requirements are satisfied with respect to that person, regardless of the method of receipt of notice.

7. Meetings during Pandemic or Chapter 12 Emergency

In the event of a health pandemic or an emergency declared under Minnesota Statutes chapter 12, a meeting may be conducted by telephone or interactive technology in compliance with Minnesota Statutes section 13D.021.

8. Meetings by Interactive Technology

A meeting may be conducted by interactive technology, Zoom, Skype, or other similar electronic means in compliance with Minnesota Statutes section 13D.02.

B. Votes

The votes of school board members shall be recorded in a journal or minutes kept for that purpose. The journal or any minutes used to record votes of a meeting must be open to the public during all normal business hours at the school district's administrative offices.

C. Written Materials

1. In any open meeting, a copy of any printed materials, including electronic communications, relating to the agenda items of the meeting prepared or distributed by or at the direction of the school board or its employees and distributed to or available to all school board members shall be available in the meeting room for inspection by the public while the school board considers their subject matter.
2. This provision does not apply to materials not classified by law as public, or to materials relating to the agenda items of a closed meeting.

D. Open Meetings and Data

1. Meetings may not be closed to discuss data that are not public data, except as

provided under Minnesota law.

2. Data that are not public data may be discussed at an open meeting if the disclosure relates to a matter within the scope of the school board's authority and is reasonably necessary to conduct the business or agenda item before the school board.
3. Data discussed at an open meeting retain the data's original classification; however, a record of the meeting, regardless of form, shall be public.

E. Closed Meetings

1. Labor Negotiations Strategy

- a. The school board may, by a majority vote in a public meeting, decide to hold a closed meeting to consider strategy for labor negotiations, including negotiation strategies or developments or discussion and review of labor negotiation proposals, conducted pursuant to Minnesota's Public Employment Labor Relations Act (PELRA)
- b. The time and place of the closed meeting shall be announced at the public meeting. A written roll of school board members and all other persons present at the closed meeting shall be made available to the public after the closed meeting. The proceedings of a closed meeting to discuss negotiation strategies shall be tape recorded, and the tape recording shall be preserved for two years after the contract discussed at the meeting is signed. The recording shall be made available to the public after all labor contracts are signed by the school board for the current budget period.

2. Sessions Closed by Bureau of Mediation Services

All negotiations, mediation meetings, and hearings between the school board and its employees or their respective representatives are public meetings. Mediation meetings may be closed only by the Commissioner of the Bureau of Mediation Services (BMS). The use of recording devices, stenographic records, or other recording methods is prohibited in mediation meetings closed by the BMS.

3. Preliminary Consideration of Allegations or Charges

The school board shall close one or more meetings for preliminary consideration of allegations or charges against an individual subject to its authority. If the school board members conclude that discipline of any nature may be warranted as a result of those specific charges or allegations, further meetings or hearings relating to those specific charges or allegations held after that conclusion is reached must be open. A meeting must also be open at the request of the individual who is the subject of the meeting. A closed meeting for this purpose must be electronically recorded at the expense of the school district, and the recording must be preserved for at least three years after the date of the meeting. The recording is not available to the public.

4. Performance Evaluations

The school board may close a meeting to evaluate the performance of an



individual who is subject to its authority. The school board shall identify the individual to be evaluated prior to closing a meeting. At its next open meeting, the school board shall summarize its conclusions regarding the evaluation. A meeting must be open at the request of the individual who is the subject of the meeting. A closed meeting for this purpose must be electronically recorded at the expense of the school district, and the recording must be preserved for at least three years after the date of the meeting. The recording is not available to the public.

5. Attorney-Client Privilege Meeting

A meeting may be closed if permitted by the attorney-client privilege. Attorney-client privilege applies when litigation is imminent or threatened, or when the school board needs advice above the level of general legal advice, for example, regarding specific acts and their legal consequences. A meeting may be closed to seek legal advice concerning litigation strategy, but the mere threat that litigation might be a consequence of deciding a matter one way or another does not, by itself, justify closing the meeting. The motion to close the meeting must specifically describe the matter to be discussed at the closed meeting, subject to relevant privacy and confidentiality considerations under state and federal law. The law does not require that such a meeting be recorded.

6. Dismissal Hearing

- a. A hearing on dismissal of a licensed teacher shall be public or private at the teacher's discretion. A hearing regarding placement of teachers on unrequested leave of absence shall be public.
- b. A hearing on dismissal of a student pursuant to the Pupil Fair Dismissal Act shall be closed unless the pupil, parent, or guardian requests an open hearing.
- c. To the extent a teacher or student dismissal hearing is held before the school board and is closed, the closed meeting must be electronically recorded at the expense of the school district, and the recording must be preserved for at least three years after the date of the meeting. The recording is not available to the public.

7. Coaches; Opportunity to Respond

- a. If the school board has declined to renew the coaching contract of a licensed or nonlicensed head varsity coach, it must notify the coach within fourteen (14) days of that decision.
- b. If the coach requests the reasons for the nonrenewal, the school board must give the coach its reasons in writing within ten (10) days of receiving the request. The existence of parent complaints must not be the sole reason for the school board not to renew a coaching contract.
- c. On the request of the coach, the school board must provide the coach with a reasonable opportunity to respond to the reasons at a school board meeting.
- d. The meeting may be open or closed at the election of the coach unless the meeting is closed as required by Minnesota Statutes section 13D.05

to discuss educational or certain other nonpublic data.

- e. A meeting closed for this purpose must be electronically recorded at the expense of the school district, and the recording must be preserved for at least three years after the date of the meeting. The recording is not available to the public.

8. Meetings to Discuss Certain Not Public Data

- a. Any portion of a meeting must be closed if the following types of data are discussed:

- (1) data that would identify alleged victims or reporters of criminal sexual conduct, domestic abuse, or maltreatment of minors or vulnerable adults;

- (2) active investigative data collected or created by a law enforcement agency;

- (3) educational data, health data, medical data, welfare data, or mental health data that are not public data; or

- (4) an individual's personal medical records.

- b. A closed meeting must be electronically recorded at the expense of the school district, and the recording must be preserved for at least three years after the date of the meeting. The recording is not available to the public.

9. Purchase and Sale of Property

- a. The school board may close a meeting:

- (1) to determine the asking price for real or personal property to be sold by the school district;

- (2) to review confidential or nonpublic appraisal data; and

- (3) to develop or consider offers or counteroffers for the purchase or sale of real or personal property.

- b. Before closing the meeting, the school board must identify on the record the particular real or personal property that is the subject of the closed meeting.

- c. The closed meeting must be tape recorded at the expense of the school district. The tape must be preserved for eight years after the date of the meeting and be made available to the public after all real or personal property discussed at the meeting has been purchased or sold or the school board has abandoned the purchase or sale. The real or personal property that is the subject of the closed meeting must be specifically identified on the tape. A list of school board members and all other persons present at the closed meeting must be made available to the public after the closed meeting.

- d. An agreement reached that is based on an offer considered at a closed meeting is contingent on its approval by the school board at an open meeting. The actual purchase or sale must be approved at an open meeting and the purchase price or sale price is public data.

10. Security Matters

- a. The school board may close a meeting to receive security briefings and reports, to discuss issues related to security systems, to discuss emergency response procedures, and to discuss security deficiencies in or recommendations regarding public services, infrastructure, and facilities, if disclosure of the information discussed would pose a danger to public safety or compromise security procedures or responses.
- b. Financial issues related to security matters must be discussed and all related financial decisions must be made at an open meeting.
- c. Before closing a meeting, the school board must refer to the facilities, systems, procedures, services, or infrastructures to be considered during the closed meeting.
- d. The closed meeting must be tape recorded at the expense of the school district and the recording must be preserved for at least four years.

11. Other Meetings

Other meetings shall be closed as provided by law, except as provided above. A closed meeting must be electronically recorded at the expense of the school district, and the recording must be preserved for at least three years after the date of the meeting. The recording is not available to the public.

F. Procedures for Closing a Meeting

The school board shall provide notice of a closed meeting just as for an open meeting. A school board meeting may be closed only after a majority vote at a public meeting. Before closing a meeting, the school board shall state on the record the specific authority permitting the meeting to be closed and shall describe the subject to be discussed.

**Legal References:**

Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)  
Minn. Stat. Ch. 13D (Open Meeting Law)  
Minn. Stat. § 121A.47, Subd. 5 (Exclusion and Expulsion Procedures)  
Minn. Stat. § 122A.33, Subd. 3 (License and Degree Exemption for Head Coach)  
Minn. Stat. § 122A.40, Subd. 14 (Employment; Contracts; Termination)  
Minn. Stat. § 179A.14, Subd. 3 (Negotiation Procedures)  
Minn. Rules Part 5510.2810 (Petition for Mediation)  
*Brown v. Cannon Falls Township*, 723 N.W.2d 31 (Minn. App. 2006)  
*Brainerd Daily Dispatch v. Dehen*, 693 N.W.2d 435 (Minn. App. 2005)  
*The Free Press v. County of Blue Earth*, 677 N.W.2d 471 (Minn. App. 2004)  
*Prior Lake American v. Mader*, 642 N.W.2d 729 (Minn. 2002)  
*Star Tribune v. Board of Education, Special School District No. 1*, 507 N.W.2d 869 (Minn. App. 1993)  
*Minnesota Daily v. University of Minnesota*, 432 N.W.2d 189 (Minn. App. 1988)  
*Moberg v. Independent School District No. 281*, 336 N.W.2d 510 (Minn. 1983)

*Sovereign v. Dunn*, 498 N.W.2d 62 (Minn. App. 1993), *rev. denied.* (Minn. 1993)  
Dept. of Admin. Advisory Op. No. 21-003 (April 19, 2021)  
Dept. of Admin. Advisory Op. No. 21-002 (January 13, 2021)  
Dept. of Admin. Advisory Op. No. 19-012 (October 24, 2019)  
Dept. of Admin. Advisory Op. No. 19-008 (May 22, 2019)  
Dept. of Admin. Advisory Op. No. 19-006 (April 9, 2019)  
Dept. of Admin. Advisory Op. No. 18-019 (December 28, 2018)  
Dept. of Admin. Advisory Op. No. 17-005 (June 22, 2017)  
Dept. of Admin. Advisory Op. No. 13-009 (March 19, 2013)  
Dept. of Admin. Advisory Op. No. 12-004 (March 8, 2012)  
Dept. of Admin. Advisory Op. No. 11-004 (April 18, 2011)  
Dept. of Admin. Advisory Op. No. 10-020 (September 23, 2010)  
Dept. of Admin. Advisory Op. No. 09-020 (September 8, 2009)  
Dept. of Admin. Advisory Op. No. 08-015 (July 9, 2008)  
Dept. of Admin. Advisory Op. No. 06-027 (September 28, 2006)  
Dept. of Admin. Advisory Op. No. 04-004 (February 3, 2004)

**Cross References:**

MSBA/MASA Model Policy 204 (School Board Meeting Minutes)  
MSBA/MASA Model Policy 206 (Public Participation in School Board Meetings/Complaints about Persons at School Board Meetings and Data Privacy Considerations)  
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 Law Bulletin "C" (Minnesota's Open Meeting Law)

Adopted: \_\_\_\_\_

MSBA/MASA Model Policy 206

Orig. 1995

Revised: \_\_\_\_\_

Rev. 2022

**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. Ch. 260E (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, 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 (Meetings Having Data Classified as Public)  
Minn. Stat. § 121A.47, Subd. 5 (Exclusion and Expulsion Procedures; Closed or Open Meeting)  
Minn. Stat. § 122A.33, Subd. 3 (License and Degree Exemption for Head Coach; Notice of Nonrenewal; Opportunity to Respond)  
Minn. Stat. § 122A.40, Subd. 14 (Employment; Contracts; Termination; Hearing Procedures)  
Minn. Stat. § 122A.44 (Contracting with Teachers; Substitute Teachers)  
Minn. Stat. § 123B.02, Subd. 14 (General Powers of Independent School Districts; Employees; Contracts for Services)  
Minn. Stat. § 123B.143, Subd. 2 (Superintendents; Disclose Past Buyouts or Contract is Void)  
Minn. Stat. Ch. 363A (Minnesota Human Rights Act)  
Minn. Stat. Ch. 260E (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 School Law Bulletin "C" (Minnesota's Open Meeting Law)  
MSBA School Law Bulletin "I" (School Records – Privacy – Access to Data)



Adopted: \_\_\_\_\_

MSBA/MASA Model Policy 207

Orig. 1995

Revised: \_\_\_\_\_

Rev. 2022

## **207 PUBLIC HEARINGS**

### **I. PURPOSE**

The school board recognizes the importance of obtaining public input on matters properly before the school board during a public hearing. The purpose of this policy is to establish procedures to efficiently receive public input.

### **II. GENERAL STATEMENT OF POLICY**

For the school board to efficiently receive public input on matters properly before the school board, the school board establishes the procedures set forth in this policy are established.

### **III. PROCEDURES**

#### **A. Public Hearings**

Public hearings are required by law concerning certain issues, including but not limited to, school closings (Minnesota Statutes section 123B.51), education district establishment (Minnesota Statutes section 123A.15), and agreements for secondary education (Minnesota Statutes section 123A.30). Additionally, other public hearings may be held by the school board on school district matters at the school board's discretion.

#### **B. Notice of Public Hearings**

Public notice of a public hearing required by law shall be given as provided by the enabling legislation. Public notice of other hearings shall be given in the manner required for a regular meeting if held in conjunction with a regular meeting, in the manner required for a special meeting if held in conjunction with a special meeting, or as otherwise determined by the school board.

#### **C. Public Participation**

The school board retains the right to require that those in attendance at a public hearing indicate their desire to address the school board and complete and file with the clerk of the school board an appropriate request card prior to commencement of the hearing if the school board utilizes this procedure. In that case, any request to address the school board after the commencement of the hearing will be granted only at the school board's discretion.

1. **Format of Request**: If required by the school board, a written request of an individual or a group to address the school board shall contain the name and address of the person or group seeking to address the school board. It shall also contain the name of the group represented, if any, and a brief statement of the subject to be covered or the issue to be addressed.
2. **Time Limitation**: The school board retains the discretion to limit the time for each presentation as needs dictate.

3. Groups: The school board retains the discretion to require that any group of persons who desire to address the school board designate one representative or spokesperson. If the school board requires designation of a representative or spokesperson, no other person in the group will be recognized to address the school board, except as the school board otherwise determines.
4. Privilege to Speak: A school board member should direct remarks or questions through the chair. 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.
5. Personal Attacks: 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.
6. Limitations on Participation: 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 to provide an orderly, efficient, and fair opportunity to be heard.

***Legal References:***

Minn. Stat. § 123A.15 (Establishing Education Districts)  
Minn. Stat. § 123A.30 (Agreements for Secondary Education)  
Minn. Stat. § 123B.51 (School Closings)

***Cross References:***

MSBA/MASA Model Policy 206 (Public Participation in School Board Meetings/Complaints about Persons at School Board Meetings and Data Privacy Considerations)

Adopted: \_\_\_\_\_

MSBA/MASA Model Policy 208

Orig. 1995

Revised: \_\_\_\_\_

Rev. 2022

## **208 DEVELOPMENT, ADOPTION, AND IMPLEMENTATION OF POLICIES**

***[Note: The provisions of this policy are recommendations. The procedures for policy development, adoption, and implementation are not specifically provided by statute.]***

### **I. PURPOSE**

The purpose of this policy is to emphasize the importance of the policy-making role of the school board and provide the means for it to be an ongoing effort.

### **II. GENERAL STATEMENT OF POLICY**

Formal guidelines are necessary to ensure the school community that the school system responds to its mission and operates in an effective, efficient, and consistent manner. A set of written policies shall be maintained and modified as needed. Policies should define the desire and intent of the school board and should be in a form that is sufficiently explicit to guide administrative action.

### **III. DEVELOPMENT OF POLICY**

- A. The school board has jurisdiction to legislate policy with the force and effect of law for the school district. School district policy provides the school board's general direction for the school district while delegating policy implementation to the administration.
- B. The school district's policies provide guidelines and goals to the school community. The policies are the basis for guidelines and directives created by the administration. The school board shall determine the effectiveness of policies by evaluating periodic reports from the administration.
- C. Policies may be proposed by a school board member, employee, student, or resident of the school district. Proposed policies or ideas shall be submitted to the superintendent for review prior to possible placement on the school board agenda.

### **IV. ADOPTION AND REVIEW OF POLICY**

- A. The school board shall give notice of proposed policy changes or adoption of new policies by placing the item on the agenda of two school board meetings. The proposals shall be distributed and public comment will be allowed at both meetings.
- B. The final action taken to adopt the proposed policy shall be approved by a simple majority vote of the school board at a meeting after the two meetings at which public input was received. The policy will be effective on the latter of the date of passage or the date stated in the motion.
- C. In an emergency, a new or modified policy may be adopted by a majority vote of a quorum of the school board in a single meeting. A statement regarding the emergency and the need for immediate adoption of the policy shall be included in the minutes. The policy adopted in an emergency shall expire within one year following the emergency action unless the policy adoption procedure stated above is followed and the policy is reaffirmed. The school board shall have discretion to determine what constitutes an

emergency.

- D. If a policy is modified with minor changes that do not affect the substance of the policy or because of a legal change over which the school board has no control, the modified policy may be approved at one meeting at the discretion of the school board.

**V. IMPLEMENTATION OF AND ACCESS TO POLICY**

- A. The superintendent shall be responsible for implementing school board policies, other than the policies that cover how the school board will operate. The superintendent shall develop administrative guidelines and directives to provide greater specificity and consistency in the process of implementation. These guidelines and directives, including employee and student handbooks, shall be subject to annual review and approval by the school board.
- B. Each school board member shall have access to school district policies. A copy of the school district policies shall be placed in the office of each school attendance center and in the central school district office and shall be available for reference purposes to other interested persons.
- C. The superintendent, employees designated by the superintendent, and individual school board members shall be responsible for keeping the policy current.
- D. The school board shall review policies at least once every three years. The superintendent shall be responsible for developing a system of periodic review, addressing approximately one third of the policies annually. In addition, the school board shall review the following policies annually: 506 Student Discipline; 722 Public Data Requests; and 806 Crisis Management Policy.
- E. When no school board policy exists to provide guidance on a matter, the superintendent is authorized to act appropriately under the circumstances keeping in mind the mission, educational philosophy, and financial condition of the school district. Under such circumstances, the superintendent shall advise the school board of the need for a policy and present a recommended policy to the school board for approval.

**Legal References:** Minn. Stat. § 123B.02, Subd. 1 (School District Powers)  
Minn. Stat. § 123B.09, Subd. 1 (School Board Powers)

**Cross References:** MSBA/MASA Model Policy 305 (Policy Implementation)

Adopted: \_\_\_\_\_

MSBA/MASA Model Policy 210

Orig. 1995

Revised: \_\_\_\_\_

Rev. 2022

## **210 CONFLICT OF INTEREST – SCHOOL BOARD MEMBERS**

### **I. PURPOSE**

The purpose of this policy is to observe state statutes regarding conflicts of interest and to engage in school district business activities in a fashion designed to avoid any conflict of interest or the appearance of impropriety.

### **II. GENERAL STATEMENT OF POLICY**

It is the policy of the school board to contract for goods and services in conformance with statutory conflict of interest laws and in a manner that will avoid any conflict of interest or the appearance thereof. Accordingly, the school board will contract under the statutory exception provisions only when it is clearly in the best interest of the school district because of limitations that may exist on goods or services otherwise available to the school district.

### **III. GENERAL PROHIBITIONS AND RECOGNIZED STATUTORY EXCEPTIONS**

- A. A school board member who is authorized to take part in any manner in making any sale, lease, or contract in his or her official capacity shall not voluntarily have a personal financial interest in that sale, lease, or contract or personally benefit financially therefrom.
- B. In the following circumstances, however, the school board may as an exception, by unanimous vote, contract for goods or services with a school board member of the school district:
  - 1. In the designation of a bank or savings association, in which a school board member is interested, as an authorized depository for school district funds and as a source of borrowing, provided such deposited funds are protected in accordance with Minnesota Statutes chapter 118A. Any school board member having said interest shall disclose that interest and the interest shall be entered upon the school board minutes. Disclosure shall be made when such bank or savings association is first designated as a depository or source of borrowing, or when such school board member is elected, whichever is later. Disclosure serves as notice of the interest and need only be made once;
  - 2. The designation of an official newspaper, or publication of official matters therein, in which the school board member is interested when it is the only newspaper complying with statutory requirements relating to the designation or publication;
  - 3. A contract with a cooperative association of which the school board member is a shareholder or stockholder but not an officer or manager;
  - 4. A contract for which competitive bids are not required by law. A contract made under this exception will be void unless the following procedures are observed:
    - a. The school board shall authorize the contract in advance of its performance by adopting a resolution setting out the essential facts and

determining that the contract price is as low as or lower than the price at which the goods or services could be obtained elsewhere.

- b. In the case of an emergency when the contract cannot be authorized in advance, payment of the claims must be authorized by a like resolution wherein the facts of the emergency are also stated.
  - c. Before a claim is paid, the interested school board member shall file with the clerk of the school board an affidavit stating:
    - (1) The name of the school board member and the office held;
    - (2) An itemization of the goods or services furnished;
    - (3) The contract price;
    - (4) The reasonable value;
    - (5) The interest of the school board member in the contract; and
    - (6) That to the best of the school board member's knowledge and belief, the contract price is as low as, or lower than, the price at which the goods or services could be obtained from other sources.
5. A school board member may contract with the school district to provide construction materials or services, or both, when the sealed bid process is used. When the contract comes before the school board for consideration, the interested school board member may not vote on the contract. (**Note:** *This section applies only when the school district has a population of 1,000 or less according to the last federal census.*)
6. A school board member may rent space in a public facility at a rate commensurate with that paid by other members of the public.
- C. In the following circumstances, the school board may as an exception, by majority vote at a meeting at which all school board members are present, contract for services with a school board member of the school district: A school board member may be newly employed or may continue to be employed by the school district as an employee only if there is a reasonable expectation on July 1, or at the time the contract is entered into or extended, that the amount to be earned by that school board member under that contract or employment relationship, will not exceed \$20,000 in that fiscal year. If the school board member does not receive majority approval to be initially employed or to continue in employment at a meeting at which all school board members are present, that employment is immediately terminated and that school board member has no further rights to employment while serving as a school board member in the school district.
- [Note: The \$8,000 figure increased to \$20,000 effective July 1, 2022]**
- D. The school board may contract with a class of school district employees, such as teachers or custodians, when the spouse of a school board member is a member of the class of employees contracting with the school board and the employee spouse receives no special monetary or other benefit that is substantially different from the benefits that other members of the class receive under the employment contract. For the school



board to invoke this exception, it must have a majority of disinterested school board members vote to approve the contract, direct the school board member spouse to abstain from voting to approve the contract, and publicly set out the essential facts of the contract at the meeting in which the contract is approved.

#### **IV. LIMITATIONS ON RELATED EMPLOYEES**

- A. The school board must hire or dismiss teachers only at duly called meetings. When a husband and wife, brother and sister, or two brothers or sisters, constitute a quorum, no contract employing a teacher may be made or authorized except upon the unanimous vote of the full school board.
- B. The school board may not employ any teacher related by blood or marriage to a school board member, within the fourth degree as computed by the civil law, except by a unanimous vote of the full school board.

#### **V. CONFLICTS PRIOR TO TAKING OFFICE**

A school board member with personal financial interest in a sale, lease, or contract with the school district which was entered before the school board member took office and presents an actual or potential conflict of interest, shall immediately notify the school board of such interest. It shall thereafter be the responsibility of the school board member to refrain from participating in any action relating to the sale, lease, or contract. At the time of renewal of any such sale, lease, or contract, the school board may enter into or renew such sale, lease, or contract only if it falls within one of the enumerated exceptions for contracts relating to goods or services provided above and if the procedures provided in this policy are followed.

#### **VI. DETERMINATION AS TO WHETHER A CONFLICT OF INTEREST EXISTS**

The determination as to whether a conflict of interest exists is to be made by the school board. Any school board member who has an actual or potential conflict shall notify the school board of such conflict immediately. The school board member shall thereafter cooperate with the school board as necessary for the school board to make its determination.

**Legal References:** Minn. Stat. § 122A.40, Subd. 3 (Employment; Contracts; Termination)  
Minn. Stat. § 123B.195 (Board Member's Right to Employment)  
Minn. Stat. § 471.87 (Public Officers, Interest in Contract; Penalty)  
Minn. Stat. § 471.88, Subds. 2, 3, 4, 5, 12, 13, and 21 (Exceptions)  
Minn. Stat. § 471.89 (Contract, When Void)  
Op. Atty. Gen. 437-A-4, March 15, 1935  
Op. Atty. Gen. 90-C-5, July 30, 1940  
Op. Atty. Gen. 90-A, August 14, 1957

**Cross References:** MSBA/MASA Model Policy 101 (Legal Status of the School Board)  
MSBA/MASA Model Policy 209 (Code of Ethics)



Adopted: \_\_\_\_\_

MSBA/MASA Model Policy 211

Orig. 1995

Revised: \_\_\_\_\_

Rev. 2022

**2.11 CRIMINAL OR CIVIL ACTION AGAINST SCHOOL DISTRICT, SCHOOL BOARD MEMBER, EMPLOYEE, OR STUDENT**

**I. PURPOSE**

The purpose of this policy is to provide guidance about the school district's position, rights, and responsibilities when a civil or criminal action is pending against the school district, or a school board member, school district employee, or student.

**II. GENERAL STATEMENT OF POLICY**

- A. The school district recognizes that, when civil or criminal actions are pending against a school board member, school district employee, or student, the school district may be requested or required to take action.
- B. In responding to such requests and/or requirements, the school district will take such measures as are appropriate to its primary mission of providing for the education of students in an environment that is safe for staff and students and is conducive to learning.
- C. The school district acknowledges its statutory obligations with respect to providing assistance to school board members and teachers who are sued in connection with performance of school district duties. Collective bargaining agreements and school district policies may also apply.

**III. CIVIL ACTIONS**

- A. Pursuant to Minnesota Statutes section 466.07, subdivision 1, the school district shall defend and indemnify any school board member or school district employee for damages in school-related litigation, including punitive damages, claimed or levied against the school board member or employee, provided that the school board member or employee was acting in the performance of the duties of the position and was not guilty of malfeasance, willful neglect of duty, or bad faith.
- B. Pursuant to Minnesota Statutes section 123B.25(b), with respect to teachers employed by the school district, upon written request of the teacher involved, the school district must provide legal counsel for any school teacher against whom a claim is made or action is brought for recovery of damages in any tort action involving physical injury to any person or property or for wrongful death arising out of or in connection with the employment of the teacher with the school district. The school district will choose legal counsel after consultation with the teacher.
- C. Data Practices

Educational data and personnel data maintained by the school district may be sought as evidence in a civil proceeding. The school district will release the data only pursuant to the Minnesota Government Data Practices Act, Minnesota Statutes chapter 13 and to the Family Educational Rights and Privacy Act, 20 United States Code section 1232g, and related regulations. When an employee is subpoenaed and is expected to testify

regarding educational data or personnel data, the employee will inform the building administrator or designated supervisor, who shall immediately inform the superintendent or designee. No school board member or employee may release data without consultation in advance with the school district official designated as the responsible authority for the collection, use, and dissemination of data.

D. Service of Subpoenas

School district officers and employees will normally not be involved in providing service of process for third parties in the school setting.

E. Leave to Testify

Leave for employees appearing in court, either when sued or under subpoena to testify, will be considered in accordance with school district personnel policies and applicable collective bargaining agreements.

**IV. CRIMINAL CHARGES OR CONDUCT**

A. Employees

1. The school district expects that its employees serve as positive role models for students. As role models for students, employees have a duty to conduct themselves in an exemplary manner.
2. If the school district receives information relating to activities of a criminal nature by an employee, the school district will investigate and take appropriate disciplinary action, which may include discharge, subject to school district policies, statutes, and provisions of applicable collective bargaining agreements.
3. Pursuant to Minnesota Statutes section 123B.02, subdivision 20, if reimbursement for a criminal defense is requested by a school district employee, the school board may, after consulting with its legal counsel, reimburse the employee for any costs and reasonable attorney fees incurred by the employee to defend criminal charges brought against the employee arising out of the performance of duties for the school district. The decision whether to reimburse shall be made in the school board's discretion. A school board member who is a witness or an alleged victim in the case may not vote on the reimbursement. If a quorum of the school board is disqualified from voting on the reimbursement, the reimbursement must be approved by a judge of the district court.

B. Students

The school district has an interest in maintaining a safe and healthful environment and in preventing disruption of the educational process. To promote that interest, the school district will take appropriate action regarding students convicted of crimes that relate to the school environment.

C. Criminal Investigations

1. The policy of the school district is to cooperate with law enforcement officials. The school district will make all efforts, however, to encourage law enforcement officials to question students and employees outside of school hours and off school premises unless extenuating circumstances exist, the matter being

investigated is school-related, or as otherwise provided by law.

2. If questioning at school is unavoidable, the school district will attempt to maintain confidentiality to avoid embarrassment to students and employees and to avoid disruption of the educational program. The school district will attempt to notify parents of a student under age 18 that police will be questioning their child. Normally, the superintendent, principal, or other appropriate school official will be present during the interview, except as otherwise required by law (Minnesota Statutes section 260E.22), or as otherwise determined in consultation with the parent or guardian.

D. Data Practices

The school district will release to juvenile justice and law enforcement authorities educational and personnel data only in accordance with Minnesota Statutes chapter 13 (Minnesota Government Data Practices Act) and 20 United States Code section 1232g (FERPA).

**V. STATEMENTS WHEN LITIGATION IS PENDING**

The school district recognizes that when a civil or criminal action is commenced or pending, parties to the lawsuit have particular duties in reference to persons involved or named in the lawsuit, as well as insurance carrier(s). Therefore, school board members or school district employees shall make or release statements in that situation only in consultation with legal counsel.

**Legal References:** Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)  
Minn. Stat. §§ 121A.40-121A.56 (Pupil Fair Dismissal Act)  
Minn. Stat. § 123B.02, Subd. 20 (Legal Counsel; Reimbursement)  
Minn. Stat. § 123B.25(b) (Legal Actions Against Districts and Teachers)  
Minn. Stat. § 260E.22 (Interviews)  
Minn. Stat. § 466.07, Subd. 1 (Indemnification)  
20 U.S.C. § 1232g (Family Educational Rights and Privacy Act)  
42 U.S.C. § 1983 (Civil Action for Deprivation of Rights)  
Minn. Op. Atty. Gen. 169 (Mar. 7, 1963)  
Minn. Op. Atty. Gen. 169 (Nov. 3, 1943)  
*Dypress v. School Committee of Boston*, 446 N.E.2d 1099 (Mass. App. Ct. 1983)  
*Wood v. Strickland*, 420 U.S. 308(1975)

**Cross References:** MSBA/MASA Model Policy 403 (Discipline, Suspension, and Dismissal of School District Employees)  
MSBA/MASA Model Policy 406 (Public and Private Personnel Data)  
MSBA/MASA Model Policy 408 (Subpoena of a School District Employee)  
MSBA/MASA Model Policy 414 (Mandated Reporting of Child Neglect or Physical or Sexual Abuse)  
MSBA/MASA Model Policy 506 (Student Discipline)  
MSBA/MASA Model Policy 515 (Protection and Privacy of Pupil Records)