

*Adopted: 3/23/98*

*Revised:*

## **206 PUBLIC PARTICIPATION IN MEETINGS/COMPLAINTS ABOUT PERSONS AT BOARD MEETINGS AND DATA PRIVACY CONSIDERATIONS**

### **I. PURPOSE**

A. The Cooperative board recognizes the value of participation by the public in deliberations and decisions on Cooperative district matters. At the same time, the Cooperative board recognizes the importance of conducting orderly and efficient proceedings, with opportunity for expression of all participants' respective views.

B. The purpose of this policy is to provide procedures to assure open and orderly public discussion as well as to protect the due process and privacy rights of individuals under the law.

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

A. It is the policy of the Cooperative board to encourage discussion by citizens of subjects related to the management of the Cooperative district at Cooperative board meetings. The Cooperative board may adopt reasonable time, place and manner restrictions on public expression in order to facilitate free discussion by all interested parties.

B. The Cooperative board shall, as a matter of policy, protect the legal rights to privacy and due process of employees and students.

### **III. DEFINITIONS**

A. "Personnel data" means data on individuals collected because the individual is or was an employee or applicant for employment. For purposes of this policy, "employee" includes a volunteer, an independent contractor, and a member of an advisory board.

B. Personnel data on current and former employees that is "public" includes:

Name; actual gross salary; salary range; contract fees; actual gross pension; the value and nature of employer paid fringe benefits; the basis for and the amount of any added remuneration, including expense reimbursement, in addition to salary; job title; job description; education and training background; previous work experience; date of first and last employment; the existence and status of any complaints or charges against the employee, regardless of whether the complaint or charge resulted in a disciplinary action; the final disposition of any disciplinary action together with the specific reasons for the action and data documenting the basis of the

action, excluding data that would identify confidential sources who are employees of the public body; the terms of any agreement settling any dispute arising out of the employment relationship or a superintendent buy out agreement; work location; a work telephone number; badge number; honors and awards received; 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; and city and county of residence.

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. Names and home addresses of applicants for appointment to and members of an advisory board or commission are public.

D. "Educational data" means data maintained by the Cooperative district which relates to a student.

E. "Student" means an individual currently or formerly enrolled or registered in the Cooperative district, or applicants for enrollment, or individuals who receive shared time services.

#### **IV. RIGHTS TO PRIVACY**

A. Cooperative district employees have a legal right to privacy related to matters which may come before the Cooperative board, including, but not limited to, the following:

1. right to a private hearing for teachers, pursuant to Minn. Stat. § 125.12, Subd. 9 (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 Cooperative board of certain data treated as not public as provided in Minn. Stat. § 471.705, Subd. 1d. (not public data).

B. Cooperative district students have a legal right to privacy related to matters which may come before the Cooperative board, including, but not limited to, the following:

1. right to a private hearing, Minn. Stat. § 127.31, Subd. 5 (Student dismissal hearing);
2. right to privacy of educational data, Minn. Stat. § 13.32 (Educational Data); 20 U.S.C. § 1232g (FERPA);
3. right to privacy of complaints as provided by child abuse reporting and discrimination laws, Minn. Stat. § 626.556 (Reporting of Maltreatment of Minors) and Minn. Stat. Ch. 363 (Minnesota Human Rights Act).

## **V. RIGHTS OF THE PUBLIC**

All citizens of the Cooperative district have a right to an opportunity to be heard and to have complaints considered and evaluated by the Cooperative board, within the limits of the law and this policy and subject to reasonable time, place and manner restrictions. Among the rights available to the public is the right to access public data as provided by Minn. Stat. § 13.43, Subd. 2 (Public data).

## **VI. PROCEDURES**

### **A. Agenda items.**

1. Citizens who wish to have a subject discussed at a public Cooperative board meeting are encouraged to notify the superintendent's office in advance of the Cooperative 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 Cooperative board on a particular subject may speak during the discussion of that item.
3. The Cooperative 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 Cooperative board, or the proceedings may be directed to leave.
4. The Cooperative board retains the discretion to limit discussion of any agenda item to a reasonable period of time as determined by the Cooperative board. If a group or organization wish to address the Cooperative board on a topic, the Cooperative 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 Cooperative board in accordance with governing law.

6. The Cooperative board chair shall promptly rule out of order any discussion by any person, including Cooperative 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 Cooperative board are unacceptable. Persistence in such remarks by an individual shall terminate that person's privilege to address the Cooperative board.
8. Depending upon the number of persons in attendance seeking to be heard, the Cooperative 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 Cooperative 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 Cooperative district should be directed to the superintendent's office.
4. Complaints which are unresolved at the superintendent's level may be brought before the Cooperative board by notifying the Cooperative board in writing requesting placement on the Cooperative board agenda.

#### **C. Open Forum**

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

### **VII. PENALTIES FOR VIOLATION OF DATA PRIVACY**

- A. The Cooperative 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 is guilty of a misdemeanor. (Minn. Stat. § 13.09)
- C. In the case of an employee, willful violation constitutes just cause for suspension without pay or dismissal. (Minn. Stat. § 13.09)

**Legal References:** Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)  
Minn. Stat. § 123.35, Subds. 5 and 6 (school district powers)  
Minn. Stat. § 125.12, Subd. 9 (Teacher discharge hearing)  
Minn. Stat. § 127.31, Subd. 5 (Student dismissal hearing)  
Minn. Stat. Ch. 363 (Minnesota Human Rights Act)  
Minn. Stat. § 471.705 (Open Meeting Law)  
Minn. Stat. § 626.556 (Reporting of Maltreatment of Minors)  
20 U.S.C. § 1232g (Family Educational Rights and Privacy Act)

**Cross References:** MSBA Model Policy 205 (Open Meetings and Closed Meetings)  
MSBA Model Policy 207 (Public Hearings)  
MSBA Model Policy 406 (Public and Private Personnel Data)  
MSBA Model Policy 515 (Protection and Privacy of Pupil Records)  
MSBA Service Manual Chapter 3 (A. - F.) (School Board Meetings)  
MSBA Service Manual Chapter 13, School Law Bulletin "T" (School Records-Privacy-Access to Data))