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200 OPEN MEETINGS AND CLOSED MEETINGS

I. PURPOSE

- a. The school board embraces the philosophy of openness in the conduct of its business, in the belief that openness produces better programs, more efficiency in 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 the 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

- a. "Meeting" means a gathering of at least a quorum or more members of the school board, 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.
- b. "Interactive Technology" means a device, software program, or other application that allows individuals in different physical locations to see and hear one another.

IV. PROCEDURES

a. Meetings

i. Regular Meetings

1. A schedule of the regular meetings of the school board shall be kept on file at its primary offices. If the school board decides to hold a regular meeting at a time or place different from the time or place stated in its schedule, it shall give the same notice of the meeting as for a special meeting.
2. Meetings may be conducted by interactive technology so long as:
 - a) all members of the body participating in the meeting, wherever their physical location, can hear and see one another and can hear and see all discussion and testimony presented at any location at which at least one member is present;
 - b) members of the public present at the regular meeting location of the body can hear and see all discussion and testimony and all votes of the members of the body;
 - c) at least one member of the body is physically present at the regular meeting location;
 - d) all votes are conducted by roll call so each member's vote on each issue can be identified and recorded; and
 - e) each location at which a member of the body is present is open and accessible to the public. (Minn. Stat. 13D.02 Subd.1(a))

A meeting held by interactive technology satisfies the above conditions although a member of the public body participates from a location that is not open or accessible to the public if the member has not participated more than three times in a calendar year from a location that is not open or accessible to the public. (Minn. Stat. 13D.02 Subd.1(b))

Each member of a board participating in a meeting by interactive technology is considered present at the meeting for purposes of determining a quorum and participating in the meeting. (Minn. Stat. 13D.02 Subd.2)

Notice of a meeting held by interactive technology shall provide the location of the regular meeting and notice of any location where a member of the Board will be participating in the meeting

by interactive technology except for the locations of members participating from a location that is not accessible or open to the public. (Minn. Stat. 13D.02 Subd.4)

3. Meetings may also be conducted by telephone or interactive technology during a pandemic if the following conditions are met:

a) the presiding officer, chief legal counsel or chief administrative officer for the governing body determines that an in-person meeting or a meeting conducted under Section 13D.02 is not practical or prudent because of a health pandemic or a declared emergency; (Minn. Stat. 13D.021 Subd. 1 (1))

b) all members of the body participating in the meeting, wherever their physical location, can hear one another and can hear all discussion and testimony; (Minn. Stat. 13D.021 Subd. 1 (2))

c) members of the public present at the regular meeting location of the body can hear all discussion and testimony and all votes of the members of the body, unless attendance at the regular meeting location is not feasible due to the health pandemic or emergency declaration; (Minn. Stat. 13D.021 Subd. 1 (3))

d) at least one member of the body, chief legal counsel, or chief administrative officer is physically present at the regular meeting location, unless attendance at the regular meeting location is not feasible due to the health pandemic or emergency declaration; Minn. Stat. 13D.021 Subd. 1 (4))

e) all votes are conducted by roll call so each member's vote on each issue can be identified and recorded. (Minn. Stat. 13D.021 Subd. 1(5))

Each member of the body participating in a meeting by telephone or interactive technology is considered present at the meeting for purposes of determining a quorum and participating in all proceedings; (Minn. Stat. 13D.021 Subd.2)

If telephone or interactive technology is used to conduct a meeting, to the extent practical, the body shall allow a person to monitor the meeting electronically from a remote location; (Minn. Stat. 13D.021 Subd.3).

If telephone or interactive technology is used to conduct a regular, special or emergency meeting, the public body shall provide notice of the regular meeting location, of the fact that some members may participate by telephone or interactive technology and of the provision of subdivision 3 above; (Minn. Stat. 13D.021 Subd.4).

If attendance at the regular meeting location is not feasible due to the health pandemic or emergency declaration and the public body's practice is to offer a public comment period at in-person meetings, to the extent practical, members of the public shall be permitted to comment from a remote location during the public comment period of the meeting. (Minn. Stat. 13D.021 Subd.5).

ii. Special Meetings

1. 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.
2. The notice shall also be mailed or otherwise delivered to each person who has filed a written request for notice of special meetings.
3. This notice shall be posted and mailed or delivered at least three days before the date of the meeting. 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.
4. 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.
5. The school board will establish an expiration date on requests for notice of special meetings and require refilling once each year. Not more than 60 days before the expiration date of request for notice, the school board shall send notice of the refilling requirement to each person who filed during the preceding year.

iii. Emergency Meetings

1. An emergency meeting is a special meeting called because of circumstances that, in the judgment of the school board, require immediate consideration.
2. 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.
3. 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.
4. Notice of the emergency meeting shall be given by telephone or any other method used to notify the members of the school board.
5. Notice shall be provided to each news medium which has filed a 200 Open Meetings and Closed Meetings, Spero Academy written request for notice as soon as reasonably practicable after notice has been given to the school board members.
6. Notice shall include the subject of the meeting.
7. Posted or published notice of an emergency meeting shall not be required.
8. 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.

iv. Recessed or Continued Meetings

1. 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.

v. Closed Meetings

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

vi. Actual Notice

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

b. Votes

- i. 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 administrative offices of the school district.

c. Written Materials

- i. In any open meeting, a copy of any printed materials relating to the agenda items prepared or distributed by 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.
- ii. 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. Data

- i. Meetings may not be closed merely because the data to be discussed are not public data.
- ii. 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.
- iii. 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

i. Labor Negotiations

1. 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.

2. 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 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.

ii. Sessions Closed by Bureau of Mediation Services

1. All negotiations, mediation sessions, and hearings between the school board and its employees or their respective representatives are public meetings except when otherwise provided by the Commissioner of the Bureau of Mediation Services.

iii. Preliminary Consideration of Charges

1. 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 200 Open Meetings and Closed Meetings, Spero Academy iv. v. vi. vii. open at the request of the individual who is the subject of the meeting.

iv. Performance Evaluations

1. 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.

v. Attorney-Client Meeting

1. 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, i.e., 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.

vi. Dismissal Hearing

1. A hearing on the 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.
2. 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.

vii. Meetings to Discuss Certain Not Public Data

1. Any portion of a meeting must be closed if the following types of data are discussed:
2. data that would identify alleged victims or reporters of criminal sexual conduct, domestic abuse, or maltreatment of minors or vulnerable adults;
3. active investigative data collected or created by a law enforcement agency; or
4. educational data, health data, medical data, welfare data, or mental health data that are not public data. 200 Open Meetings and Closed Meetings, Spero Academy

viii. Other Meetings

1. Other meetings shall be closed as provided by law.

f. Procedures for Closing a Meeting

- i. 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. § 122A.40, Subd. 14 (Termination Hearing Procedures)
Minn. Stat. § 121A.47, Subd. 5 (Student Dismissal Closed or Open Hearing)
Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)
Minn. Stat. Ch. 13D (Open Meeting Law)
Minn. Stat. § 179A.14, Subd. 3 (Negotiation Procedures - Public Meetings)
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)

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 Service Manual, Chapter 13, School Law Bulletin "C" (Minnesota's Open Meeting Law)