

NEW HEIGHTS SCHOOLS, INC.

POLICY 206

PUBLIC PARTICIPATION IN SCHOOL BOARD MEETINGS/COMPLAINTS ABOUT PERSONS AT SCHOOL BOARD MEETINGS AND DATA PRIVACY CONSIDERATIONS

POLICY MANAGEMENT

Adopted: 11/2011

Reviewed/ Revised: 12/14*, 11/17*, 4/20*, 4/23, 4/26*

Mandatory: No

Frequency: Every 3 years

Distribution: Not specified

I. PURPOSE

- A. The board of directors recognizes the value of participation by the public in deliberations and decisions on school matters. At the same time, the 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 board of directors is to encourage discussion by persons of subjects related to the management of the school at board meetings. The board may adopt reasonable time, place, and manner restrictions on public expression to facilitate free discussion by all interested parties.
- B. The 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 social security number; actual gross salary; salary range; terms and conditions of employment relationship; contract fees; actual gross pension; the value and nature of employer paid fringe benefits; the basis for and the amount of any added remuneration, including expense reimbursement, in addition to salary; job title; job description; education and training background; previous work experience; date of first and last employment; the existence

and status of any complaints or charges against the employee, regardless of whether the complaint or charge resulted in a disciplinary action; the final disposition of any disciplinary action 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 which relates to a student.

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

F. Data about applicants for appointments to a public body, including a board of directors, collected by the school 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 e-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 e-mail address or telephone number provided by a public body for use by an appointee shall be public. An appointee may use an e-mail address or telephone number provided by the public body as the designated e-mail address or telephone number at which the appointee can be reached.

IV. RIGHTS TO PRIVACY

- A. School employees have a legal right to privacy related to matters which may come before the board of directors, 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 board of directors 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. Students have a legal right to privacy related to matters which may come before the board of directors, 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 board of directors 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 board of directors meeting are encouraged to notify the principal's office in advance of the board meeting. The person 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. Persons who wish to address the board of directors on a particular subject should identify the subject and identify agenda item(s) to which their comments pertain.

3. The chair of the board of directors 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 board, or the proceedings, may be directed to leave.
4. The board retains the discretion to limit discussion of any agenda item to a reasonable period of time as determined by the board. If a group or organization wishes to address the board on a topic, the 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 board in accordance with governing law.
6. The board chair shall promptly rule out of order any discussion by any person, including 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 board are unacceptable. Persistence in such remarks by an individual shall terminate that person's privilege to address the board.
8. Depending upon the number of persons in attendance seeking to be heard, the 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 principal or designee.
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 principal or designee.
3. Unresolved complaints from Paragraph 1 of this section or problems concerning the school should be directed to the principal's office.
4. Complaints which continue to be unresolved at the principal's level may be brought before the board by notifying the board in writing.

C. Open Forum

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

The board may decide to hold certain types of public meetings where the public will not be invited to address the 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 board to be necessary or in an emergency, the 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 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. § 13.43 (Personnel Data)
Minn. Stat. § 13.601, Subd. 3 (Applicants for Appointment)
Minn. Stat. § 13D.05 (Meetings Having Data Classified as Public) Open Meeting Law)
Minn. Stat. § 121A.47, Subd. 5 (Exclusion and Expulsion Procedures; Closed or Open Meeting) Student Dismissal Hearing)
Minn. Stat. § 122A.33, Subd. 3 (License and Degree Exemption for Head Coach; Notice of Nonrenewal; Opportunity to Respond) Coaches; Opportunity to Respond)
Minn. Stat. § 122A.40, Subd. 14 (Employment; Contracts; Termination; Hearing Procedures Teacher Discharge Hearing)
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 § 626.556 (Reporting of Maltreatment of Minors)
20 U.S.C. § 1232g (Family Educational Rights and Privacy Act)
Minn. Op. Atty. Gen. 852 (July 14, 2006)

Cross References: MSBA/MASA Model Policy 205 (Open Meetings and Closed Meetings)
MSBA/MASA Model Policy 207 (Public Hearings)
MSBA/MASA Model Policy 406 (Public and Private Personnel Data)

MSBA/MASA Model Policy 515 (Protection and Privacy of Pupil Records)
MSBA School Law Bulletin “C” (Minnesota’s Open Meeting Law)
MSBA School Law Bulletin “I” (School Records – Privacy – Access to Data)