



Adopted: September 18, 1996

EMID 6067 Board Policy 206

Revised: February 18, 2004; March 21, 2007; February, 2008; December, 2009; October, 2014; December 16, 2015; October 19, 2016

206 PUBLIC PARTICIPATION AT BOARD MEETINGS, DUE PROCESS, AND DATA PRIVACY CONSIDERATIONS

I. PURPOSE

- A. The Board recognizes the value of participation by the public in deliberations and decisions on EMID 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. It is the policy of the Board to encourage discussion at Board meetings by citizens of subjects related to the policies and management of the district. The Board may adopt reasonable time, place, and manner restrictions on public expression in order to facilitate free discussion by all interested parties.
- B. The Board shall 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 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; 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, 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;; 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 EMID which relates to a student.
- E. "Student" means an individual currently or formerly enrolled or registered in EMID's programs.

- F. Data about applicants for appointments to a public body, including a board, collected by the 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; and 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 and 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. EMID employees have a legal right to privacy related to matters which may come before the Board, including, but not limited to, the following:
 - 1. right to privacy of personnel data as provided by Minn. Stat. § 13.43 (Personnel Data);
 - 2. right to consideration by the Board of certain data treated as not public as provided in Minn. Stat. § 13D.05 (Not Public Data).

- B. Students in EMID programs have a legal right to privacy related to matters which may come before the Board, including, but not limited to, the following:
 - 1. right to privacy of educational data, Minn. Stat. § 13.32 (Educational Data); 20 U.S.C. § 1232g (FERPA);
 - 2. 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. THE PUBLIC'S OPPORTUNITY TO BE HEARD

The EMID Board will strive to give individuals an opportunity to be heard and have their 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. Open Forum
 - 1. An individual may present a written or oral petition for EMID Board consideration at any regular meeting. Individuals who wish to present any matter to the Board at any such meeting shall be encouraged to notify the Board Chair or Executive Director prior to the regular meeting and should



provide his or her name, address, the name of group represented (if any) and the subject of the matter to be addressed.

2. The following general guidelines will govern the Open Forum:
 - a. speakers should complete a registration form.
 - b. a speaker may speak for up to three minutes.
 - c. topics shall not address complaints against individual employees or Board members.
 - d. the Open Forum should not exceed thirty minutes, unless approved by the Board.
 - e. the ruling of the Chair prevails on all matters.
3. The Board will not take action during the Open Forum. The Board may take action on the topic at a later time, and, if that occurs, the party or parties shall be so informed by the Executive Director. 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.
4. 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 the meetings and will be allowed to attend these meetings, but the public may not be allotted time during the meeting to address the Board.

B. Agenda Items

1. The Board meeting agenda shall be prepared by the Executive Director in consultation with the Board Chair.
2. Individuals wishing to have a subject discussed at a Board meeting are encouraged to address the Board during the Open Forum section of the agenda.
3. Individuals wishing to address the Board on a particular subject may speak, at the Board's discretion, during the discussion of that item on the agenda.
4. The Board may use other limitations and restrictions as necessary to provide for the orderly conduct of the Board matters identified on the published agenda for the meeting.

VII. PENALTIES FOR VIOLATION OF DATA PRIVACY

- A. EMID 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 (Applicant for Appointment)
Minn. Stat. § 122A.40 Subd. 14 (Teacher Discharge Hearing)
Minn. Stat. § 122A.44 (Contracting with Teachers)
Minn. Stat. § 123B.02, Subd. 14 (Employees; Contracts for Services)
Minn. Stat. § 123B.143, Subd. 2 (Disclose Past Buyouts or Contract is Void)
Minn. Stat. Ch. 363A (Minnesota Human Rights Act)
Minn. Stat. § 13D.05 (Open Meeting Law)
Minn. Stat. § 626.556 (Reporting of Maltreatment of Minors)
20 U.S.C. § 1232g (Family Educational Rights and Privacy Act)
Minn. Op. Atty. Gen. No. 852 (July 14, 2006)

Cross References:

EMID Board Policy 205 (Open Meetings and Closed Meetings)
EMID Board Policy 207 (Public Hearings)
EMID Board Policy 406 (Public and Private Personnel Data)
EMID Board Policy 515 (Protection and Privacy of Pupil Records)
MSBA Service Manual Chapter 13, School Law Bulletin "C" (Minnesota's Open Meeting Law).
MSBA Service Manual Chapter 13, School Law Bulletin "I" (School Records-Privacy-Access to Data)