

Open Meeting Law

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NRHEG Public Schools Policy 205

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205 OPEN MEETINGS AND CLOSED MEETINGS

[Note: The provisions of this policy accurately reflect the Open Meeting Law statute and are not discretionary in nature.]

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

“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 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 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. 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.

c. 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.

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 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 judgment of the school board, require immediate consideration.

[Note: While the statute leaves the question to the board of whether the

circumstances require immediate consideration at an emergency meeting, the advisory opinions of the Commissioner of Administration would limit such meetings to responding to natural disasters or health epidemics caused by an event such as an accident or terrorist attack.]

- 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 24 hours before the meeting, all notice requirements are satisfied with respect to that person, regardless of the method of receipt of notice.

7. Health Pandemic or Declared Emergency

In the event of a health pandemic or an emergency declared under Minn. Stat. Ch. 12, a meeting may be conducted by telephone or other electronic means in compliance with Minn. Stat. § 13D.021.

8. Meetings Conducted by Interactive Technology

A meeting may be conducted by interactive technology, Skype, or other similar electronic means in compliance with Minn. Stat. § 13D.02.

B. Votes

The votes of school board members shall be recorded in a journal kept for that purpose, and the journal shall be available to the public during all normal business hours at the administrative offices of the school district.

C. Written Materials

1. In any open meeting, a copy of any printed materials, including electronic communications, 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.
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. Data

1. Meetings may not be closed merely because the data to be discussed are not public data.
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.

- 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 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 sessions, and hearings between the school board and its employees or their respective representatives are public meetings. These 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 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 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 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 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, 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. 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 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.
- 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 14 days of that decision.
- b. If the coach requests the reasons for the nonrenewal, the school board must give the coach the reasons in writing within 10 days of receiving the request.
- 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 Minn. Stat. § 13D.05, Subd. 2, to discuss educational or certain other nonpublic data.

- e. 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.

8. Meetings to Discuss Certain Not Public Data

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

- a. data that would identify alleged victims or reporters of criminal sexual conduct, domestic abuse, or maltreatment of minors or vulnerable adults;
- b. active investigative data collected or created by a law enforcement agency;
- c. educational data, health data, medical data, welfare data, or mental health data that are not public data; or
- d. an individual's personal medical records.
- e. 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 (Student Dismissal Hearing)
Minn. Stat. § 122A.33, Subd. 3 (Coaches; Opportunity to Respond)
Minn. Stat. § 122A.40, Subd. 14 (Teacher Discharge Hearing)
Minn. Stat. § 179A.14, Subd. 3 (Labor Negotiations)
Minn. Rules Part 5510.2810 (Bureau of Mediation Services)
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. 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 Service Manual, Chapter 13, School Law Bulletin “C” (Minnesota’s Open Meeting Law)

INFORMATION BRIEF
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Minnesota Open Meeting Law

The Minnesota Open Meeting Law requires that meetings of governmental bodies generally be open to the public. This information brief discusses the groups and types of meetings covered by the open meeting law, and then reviews the requirements of and exceptions to the law and the penalties for its violation.

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Executive Summary

The Minnesota Open Meeting Law was originally enacted in Laws 1957, chapter 773, section 1. It is now codified in Minnesota Statutes, chapter 13D. The Minnesota Supreme Court has articulated three purposes of the open meeting law:

- To prohibit actions being taken at a secret meeting where it is impossible for the interested public to become fully informed about a public board's decisions or to detect improper influences
- To assure the public's right to be informed
- To afford the public an opportunity to present its views to the public body¹

“These purposes are deeply rooted in the fundamental proposition that a well-informed populace is essential to the vitality of our democratic form of government.”² Courts interpret the law liberally and in favor of openness.

Entities covered by the law. The law applies to state and local multimember governmental bodies, including committees and subcommittees, and nonprofits created by political subdivisions. A separate law applies to the legislature.

Situations where the law applies. A meeting is a “meeting” for purposes of the law when a quorum or more of the governmental body is gathered—in person or by electronic means, whether or not action is taken or contemplated. The open meeting law does not address whether the governmental body must keep or publish meeting minutes, hold a meeting for a particular purpose, or allow members of the public to address the body. For any particular governmental body, there may be other laws or charter provisions that address those topics.

What constitutes an open meeting. A meeting is open when proper notice was given in advance of the meeting, the public may attend and observe, and relevant materials are available to the public.

Exceptions to the law. A meeting may be closed based on a limited attorney-client privilege, and for the purposes of labor negotiations, employee evaluations, and discussion of security issues and property transactions. The law does not apply to a governmental body exercising quasi-judicial functions involving disciplinary proceedings.

¹ *Prior Lake American v. Mader*, 642 N.W.2d 729, 735 (Minn. 2002) (en banc) (citing *St. Cloud Newspapers, Inc. v. District 742 Community Schools*, 332 N.W.2d 1, 4 (Minn. 1983)). While the courts consistently say that the open meeting law is to afford the public an opportunity to present its views to the public body, there is no general right for members of the public to speak at a meeting. Some statutes, and perhaps some home rule charters, specify that a hearing on a particular matter must be held at which anyone who wishes to address the public body may do so. *See, e.g.*, Minn. Stat. § 117.0412, subd. 2.

² *Prior Lake American*, 642 N.W.2d at 735.

Violations of the law. While actions taken at a meeting held in violation of the law are still valid, the law provides for penalties and potentially removal from office.

Where to get advice. A governmental entity can seek advice from its attorney, the Minnesota Attorney General, or the Commissioner of Administration. An individual may seek advice from a private attorney or the Commissioner of Administration.

Groups and Meetings Governed by the Open Meeting Law

The law applies to all levels of state and local government.

The open meeting law applies to:

- a state agency, board, commission, or department when it is required or permitted by law to transact public business in a meeting;
- the governing body of any school district, unorganized territory, county, city, town, or other public body;
- a committee, subcommittee, board, department, or commission of a public body subject to the law; and
- the governing body or a committee of a statewide or local public pension plan.³

“Public body” is not defined but the Minnesota Supreme Court has stated that “[i]n common understanding, ‘public body’ is possibly the broadest expression for the category of governmental entities that perform functions for the public benefit.”⁴

In determining whether the open meeting law applies to a particular entity, one should look at all of the entity’s characteristics. For example, in a 1998 case, the Minnesota Supreme Court held that because the statute authorizing creation of a municipal power agency authorized an agency to conduct its affairs as a private corporation, it could hold closed meetings.⁵ The court held so notwithstanding the statute that provides for municipal power agencies to be political subdivisions of the state.⁶

³ Minn. Stat. § 13D.01, subd. 1.

⁴ *Star Tribune Co. v. University of Minnesota Board of Regents*, 683 N.W.2d 274, 280-282 (Minn. 2004) (en banc).

⁵ *Southern Minn. Mun. Power Agency v. Boyne*, 578 N.W.2d 362, 364 (Minn. 1998) (en banc) (citing Minn. Stat. § 453.54, subd. 21, and discussing the factors that distinguish a public corporation from a private corporation). See also *Minnesota Joint Underwriting Ass’n v. Star Tribune Media Co.*, 862 N.W.2d 62, 65 (Minn. 2015) (discussing *Boyne*; stating whether a particular entity is a “government entity” under the Data Practices Act is a question of law subject to the court’s de novo review).

⁶ Minn. Stat. § 453.53, subd. 1, para. (b), cl. (1) (The agency agreement shall state: “(1) That the municipal power agency is created and incorporated . . . as a municipal corporation and a political subdivision of the state, to exercise thereunder a part of the sovereign powers of the state;”).

The law generally applies to nonprofit corporations created by governmental entities.

The list of groups covered by the open meeting law does not refer to nonprofit corporations created by a governmental entity. However, the law creating a specific public nonprofit corporation may specify that it is subject to the open meeting law.⁷ In addition, any corporation created by a political subdivision before May 31, 1997, is clearly subject to the open meeting law.⁸

Gatherings of less than a quorum of a public body are not subject to the law; a “meeting” is held when the group is capable of exercising decision-making powers.

The Minnesota Supreme Court has held that the open meeting law applies only to a quorum or more of members of the governing body or a committee, subcommittee, board, department, or commission of the governing body.⁹ Serial meetings in groups of less than a quorum held in order to avoid open meeting law requirements may also be found to be a violation, depending on the facts of the case.¹⁰

A public body subject to the law should be cautious about using e-mail to communicate with other members of the body. Although the statute does not specifically address the use of e-mail, it is likely that the court would analyze use of e-mail in the same way as it has telephone conversations and letters.¹¹ That is, private communication about official business through

⁷ E.g., Minn. Stat. §§ 62Q.03, subd. 6 (Minnesota Risk Adjustment Association); 85B.02, subd. 6 (Lake Superior Center Authority); 116V.01, subd. 10 (Agricultural Utilization Research Institute); 124D.385, subd. 4 (Minnesota Commission on National and Community Service may create a nonprofit but it is subject to the open meeting law); and 128C.22 (State High School League).

⁸ Minn. Stat. § 465.719, subd. 9.

⁹ *Moberg v. Independent School Dist. No. 281*, 336 N.W.2d 510 (Minn. 1983) (en banc).

¹⁰ *Id.* at 518; see also *Mankato Free Press Co. v. City of North Mankato*, 563 N.W.2d 291, 295 (Minn. App. 1997). On remand to the district court for a factual finding on whether the city used serial interviews to avoid the open meeting law, the trial court found, and the court of appeals affirmed, that the serial meetings were not held to avoid the law. *Mankato Free Press Co. v. City of North Mankato*, No. C9-98-677, 1998 WL 865714 (Minn. App. 1998) (unpublished opinion), review denied (Minn. Feb. 24, 1999).

¹¹ *Moberg*, 336 N.W.2d at 518. The Commissioner of Administration stated in a July 9, 2008, opinion that an e-mail sent to all members of a city council by the city manager was effectively “printed material” that should be available to members of the public and also suggested that the legislature revise the statute to recognize the use of electronic and other types of communications. Minn. Dept. of Admin. Advisory Op. 08-015. A September 8, 2009, opinion by the commissioner states that the exchange of e-mails by staff and members of the Metro Gang Strike Force Advisory Board violated the open meeting law because it was not just a matter of a quorum receiving information, but a quorum of the body discussing and then giving the staff person direction on the action to take. In June 2017, the Commissioner of Administration issued an opinion that a letter signed by a quorum of a school board that was sent without public notice, or discussion and decision on the substance of the letter in an open meeting violated the law. The school board said one member drafted it, sent it to the superintendent, who made minor revisions, placed it on letterhead, and then sent it to the other members to sign. The board asserted it did not discuss or take action on it. The commissioner however found that unlikely. “The Board’s assertion that it did not discuss, decide, or take action on the contents of the letter or sending the letter is not plausible based on the very existence of the letter purporting to be from “the Board” and bearing the signatures of a quorum of members of the Board.” Minn. Dept. of Admin. Advisory Op. 17-005 (Eveleth-Gilbert Public Schools, I.S.D. No. 2154, and a letter sent to the IRRRB).

telephone conversations or letters by a quorum of a public body subject to the law would violate the law.

Serial communication through telephone conversations or letters by less than a quorum with the intent to avoid a public hearing or to come to an agreement on an issue relating to official business could also violate the law. In a 1993 case, the Minnesota Court of Appeals held that the open meeting law was not violated when two of five city council members attended private mediation sessions related to city business. The court determined that the two council members did not constitute a committee or subcommittee of the council because the group was not capable of exercising decision-making powers.¹²

The law applies to informational meetings.

The Minnesota Supreme Court has held that the open meeting law applies to all gatherings of members of a governing body, whether or not action is taken or contemplated. This means that a gathering of members of a public body for an informational seminar on matters currently facing the body or that might come before the body must be conducted openly.¹³ However, there are some exceptions. A 1975 attorney general opinion stated that city council attendance at a League of Minnesota Cities training program for city officials did not violate the open meeting law if the members did not discuss specific municipal business.¹⁴ The statute governing the Lessard-Sams Outdoor Heritage Council allows members of the council to travel together to visit sites and learn about projects without it being a violation of the law as long as the members do not decide, or agree to decide, matters under the council's jurisdiction.¹⁵

The law does not cover chance or social gatherings.

The open meeting law does not apply to chance or social gatherings of members of a public body.¹⁶ However, a quorum of a public body may not, as a group, discuss or receive information on official business in any setting under the guise of a private social gathering.¹⁷

The law does not apply to certain types of advisory groups.

The Minnesota Court of Appeals has held that the open meeting law does not apply to certain types of advisory groups.¹⁸ In that case, a presidential search advisory committee to the University of Minnesota Board of Regents was held not to be a committee of the governing body for purposes of the open meeting law. In reaching its holding, the court pointed out that no

¹² *Sovereign v. Dunn*, 498 N.W.2d 62 (Minn. App. 1993), *review denied* (Minn. May 28, 1993).

¹³ *St. Cloud Newspapers, Inc.*, 332 N.W.2d 1.

¹⁴ Op. Att'y Gen. 63a-5, Feb. 5, 1975.

¹⁵ Minn. Stat. § 97A.056, subd. 5, para. (b), provides "Travel to and from scheduled and publicly noticed site visits by council members for the purposes of receiving information is not a violation of paragraph (a). Any decision or agreement to make a decision during the travel is a violation of paragraph (a)."

¹⁶ *St. Cloud Newspapers, Inc.*, 332 N.W.2d at 7.

¹⁷ *Moberg*, 336 N.W.2d at 518.

¹⁸ *The Minnesota Daily v. University of Minnesota*, 432 N.W.2d 189 (Minn. App. 1988).

regents were on the search committee and that the committee had no power to set policy or make a final decision. It is not clear if a court would reach the same result if members of the governing body were also on the advisory committee. Depending on the number of members of the governing body involved and on the form or extent of the delegation of authority from the governing body to the members, a court might consider the advisory committee to be a committee of the governing body.

A separate law applies to the legislature.

In 1990, the legislature passed a law separate from the open meeting law that requires all legislative meetings be open to the public.¹⁹ The law applies to House and Senate floor sessions and to meetings of committees, subcommittees, conference committees, and legislative commissions. For purposes of this law, a meeting occurs when a quorum is present *and action is taken* regarding a matter within the jurisdiction of the group. Each house of the legislature must adopt rules to implement these requirements. Remedies provided under these rules are the exclusive means of enforcing this law.

Hybrid groups—those made up of both legislators and nonlegislators—may have different open meeting law requirements. The Legislative-Citizen Commission on Minnesota Resources is subject to Minnesota Statutes, chapter 13D, except that a meeting only occurs when a quorum is present and action is taken, similar to the legislative open meeting law.²⁰ In contrast, the Lessard-Sams Outdoor Heritage Council, which also has both legislators and nonlegislators on it, is subject to chapter 13D, and a meeting occurs when a quorum is present whether or not action is taken.²¹ Similarly, how the law applies to the hybrid Child Support Task Force was clarified in 2017.²²

¹⁹ Minn. Stat. § 3.055.

²⁰ Minn. Stat. § 116P.08, subd. 5, “(a) Meetings of the commission, committees, or subcommittees of the commission, technical advisory committees, and peer reviewers must be open to the public and are subject to chapter 13D. The commission shall attempt to meet throughout various regions of the state during each biennium. For purposes of this subdivision, *a meeting occurs when a quorum is present and action is taken regarding a matter within the jurisdiction* of the commission, a committee or subcommittee of the commission, a technical advisory committee, or peer reviewers.

(b) For legislative members of the commission, enforcement of this subdivision is governed by section 3.055, subdivision 2. For nonlegislative members of the commission, enforcement of this subdivision is governed by section 13D.06, subdivisions 1 and 2.” (emphasis added).

²¹ Minn. Stat. § 97A.056, subd. 5.

²² Minn. Stat. § 518A.79, subd. 3a (added by Laws 2017, 1st spec. sess. ch. 4, art. 2, § 48, effective January 1, 2018): “Except as otherwise provided in this section, the task force is subject to chapter 13D. A meeting of the task force occurs when a quorum is present and the members receive information, discuss, or take action on any matter relating to the duties of the task force. The task force may conduct meetings as provided in section 13D.015 or 13D.02. The task force may conduct meetings at any location in the state that is appropriate for the purposes of the task force as long as the location is open and accessible to the public. For legislative members of the task force, enforcement of this subdivision is governed by section 3.055, subdivision 2. For nonlegislative members of the task force, enforcement of this subdivision is governed by section 13D.06, subdivisions 1 and 2.”

Requirements of the Open Meeting Law

The primary requirement of the open meeting law is that meetings be open to the public.

The law also requires that votes in open meetings be recorded in a journal and that the journal be open to the public. The vote of each member must be recorded on appropriations of money, except for payments of judgments and claims and amounts fixed by statute.²³ A straw ballot to narrow the list of candidates for city administrator and not made public was held to be a secret vote in violation of the open meeting law, particularly in light of the fact that the straw vote was acted on and given the same effect as an official act.²⁴

Open meetings must be held in a public place within the borders of the public body.²⁵

Meetings may be held by interactive television if specified conditions are met to ensure openness and accessibility for those who wish to attend.²⁶ The Commissioner of Administration issued an opinion in 2013 that attending a meeting using a web-based technology like Skype is like attending by interactive TV and is allowed as long as the requirements for attending by interactive TV are met.²⁷

A state entity may hold meetings by telephone or other electronic means as long as specified conditions are met to ensure openness and accessibility for those who wish to attend. In addition, a meeting of any public body (state or local) may be conducted by telephone or other electronic means if a health pandemic or other emergency makes meeting in person impractical or imprudent and all of the same conditions as for other meetings held by telephone or other electronic means are met, unless unfeasible due to the pandemic or emergency.

In general, those conditions include the following:

- All members of the body can hear one another and can hear all discussion and testimony.
- Members of the public at the regular meeting location can hear all discussion, testimony, and votes.
- At least one member of the body (or, in the case of a health pandemic or other emergency, the chief legal counsel or chief administrative officer) is present at the regular meeting location. (If using interactive TV under section 13D.02—as opposed to

²³ Minn. Stat. § 13D.01, subs. 4 and 5.

²⁴ *Mankato Free Press Co.*, 563 N.W.2d at 295-96. In contrast, the Commissioner of Administration issued an advisory opinion finding that a secret straw ballot taken and its results described and discussed at the same meeting as the ballot was not a violation. Minn. Dept. of Admin. Advisory Op. 10-011.

²⁵ *Quast v. Knutson*, 276 Minn. 340, 341, 150 N.W.2d 199, 200 (1967) (school board meeting held 20 miles outside the jurisdiction of the school board at a private office did not comply with open meeting law; consolidation proceedings were fatally defective because the resolution by which the proceedings were initiated was not adopted at a public meeting as required by law).

²⁶ Minn. Stat. § 13D.02. *See also* Minn. Stat. § 471.59, subd. 2 (joint powers board for educational purposes).

²⁷ Minn. Dept. of Admin. Advisory Op. 13-009.

telephone or other electronic means—there is the additional condition that each location be open and accessible to the public.)

- All votes are conducted by roll call.
- The public body must allow a person to monitor the meeting electronically from another location. The body may require the person to pay for any documented additional costs the body incurs as a result of the additional connection.
- The public body must give notice of the regular meeting location, of the fact that some members may participate by telephone or other electronic means, and of the right of the public to monitor the meeting from another location. In addition, the public body must post the notice on its website at least ten days before any regular meeting.²⁸

The law requires public bodies to give notice of their meetings.

In 1974, the Minnesota Supreme Court held that failure to give notice of a meeting is a violation of the open meeting law.²⁹ The court has also held that it is a violation of the open meeting law to conduct business before the time publicly announced for a meeting.³⁰

In 1987, the legislature spelled out the notice requirements in statute for regular, special, emergency, and closed meetings. Public bodies must do the following:

- Keep schedules of *regular* meetings on file at their offices³¹
- Post notice of *special* meetings (meetings held at a time or place different from regular meetings) on their principal bulletin board. The public body must also either mail notice to people who have requested such mailings, or publish notice in the official newspaper, at least three days before the meetings³²

²⁸ Minn. Stat. §§ 13D.015 (state entities); 13D.02; 13D.021 (state or local entities in the case of health pandemic, other emergency). Various statutes for specific public bodies also allow for meetings by interactive television, telephone, or other electronic means: Minn. Stat. §§ 13D.02, subd. 5 (school boards with audio and visual link); 35.0661 (Board of Animal Health during restricted travel for animal health reasons); 41A.0235 (Minnesota Agricultural and Economic Development Board); 41B.026 (Rural Finance Agency); 116L.03, subd. 8 (Minnesota Jobs Skills Partnership Board); 116M.15, subd. 5 (Minnesota Emerging Entrepreneur Board); 116T.02, subd. 6 (Northern Technology Initiative, Inc.); 116U.25 (Explore Minnesota Tourism Council); 123A.16, subd. 1 (education district boards); 129C.105 (Board of the Perpich Center for Arts Education); 134.31, subd. 7 (Advisory Committee for the Minnesota Braille and Talking Book Library); 176.102, subd. 3c (rehabilitation review panels); 176.103, subd. 3 (Medical Services Review Board); 248.10 (Rehabilitation Council for the Blind); 256.482, subd. 5b (Minnesota State Council on Disability); 256.975, subd. 2a. (Minnesota Board on Aging); 256C.28, subd. 7 (Commission of Deaf, DeafBlind and Hard-of-Hearing Minnesotans); 268A.02, subd. 3 (State Rehabilitation Council and Statewide Independent Living Council); 326B.32, subd. 7 (Board of Electricity); 326B.435, subd. 7 (Board of Plumbing); 326B.925, subd. 7 (Board of High Pressure Piping Systems); 462A.041 (Minnesota Housing Finance Agency).

²⁹ *Sullivan v. Credit River Township*, 299 Minn. 170, 217 N.W.2d 502 (1974).

³⁰ *Merz v. Leitch*, 342 N.W.2d 141, 145 (Minn. 1984) (en banc).

³¹ Minn. Stat. § 13D.04, subd. 1.

³² Minn. Stat. § 13D.04, subd. 2; *Rupp v. Mayasich*, 533 N.W.2d 893 (Minn. App. 1995) (bulletin board must be reasonably accessible to the public). A February 3, 2004, advisory opinion by the Commissioner of

- Make good faith efforts to notify news media that have filed written requests (with telephone numbers) for notice of *emergency* meetings (special meetings called because of circumstances that require immediate consideration)³³

The same notice requirements apply to closed meetings.³⁴

Absent any other specific law governing notice by a state agency, a state agency required or permitted by law to transact public business in a meeting satisfies notice requirements if it publishes notice in the State Register or posts notice on the agency's website. In addition, a schedule of the regular meetings must be kept on file at the primary offices or posted on the agency's website.³⁵

The law requires relevant materials to be publicly available.

The open meeting law requires that for open meetings, at least one copy of any printed material prepared by the public body and distributed or available to all members of the public body also be available in the meeting room for inspection by the public. This requirement does not apply to materials that are classified as other than public under the Government Data Practices Act.³⁶

Exceptions to the Open Meeting Law

A closed meeting, except one closed under the attorney-client privilege, must be electronically recorded at the expense of the public body. Unless otherwise provided by law, the recordings must be preserved for at least three years after the date of the meeting.³⁷

The law does not apply to state agency disciplinary hearings.

The open meeting law does not apply to any state agency, board, or commission when exercising quasi-judicial functions involving disciplinary hearings.³⁸

Administration stated that a public body's actions at a special meeting are limited to those topics included in the notice of special meeting. Minn. Dept. of Admin. Advisory Op. 04-004.

³³ Minn. Stat. § 13D.04, subd. 3.

³⁴ Minn. Stat. § 13D.04, subd. 5.

³⁵ Minn. Stat. § 13D.04, subd. 6.

³⁶ Minn. Stat. § 13D.01, subd. 6.

³⁷ Minn. Stat. § 13D.05, subd. 1.

³⁸ Minn. Stat. § 13D.01, subd. 2. This subdivision also says that the law does not apply to meetings of the Commissioner of Corrections, which does not really make sense since such a meeting is not of a multimember body. It may be explained by the legislative history, however. Until 1982, the exception was for meetings of the Corrections Board, a multimember body. A 1983 instruction directed the Revisor of Statutes to change "Corrections Board" to "Commissioner of Corrections" throughout statutes. Laws 1983, ch. 274, § 18.

Certain meetings involving employee evaluation or discipline must be closed.

A public body must close meetings for preliminary consideration of allegations or charges against an individual subject to its authority.³⁹ If the members of the public body conclude that discipline may be warranted as a result of those charges, further meetings or hearings relating to the charges must be open. Meetings must also be open at the request of the individual who is the subject of the meeting.

Statutes other than the open meeting law may permit or require closed meetings for certain local governmental bodies to conduct specific kinds of disciplinary hearings. For example, school board hearings held to discharge or demote a teacher are private unless the affected teacher wants a public hearing.⁴⁰

A public body may close a meeting to evaluate the performance of an individual who is subject to its authority.⁴¹ Before closing a meeting, the public body must identify the individual to be evaluated. The public body must summarize the conclusions of the evaluation at its next open meeting. An evaluation meeting must be open at the request of the subject of the meeting.⁴²

A meeting may be closed to discuss labor negotiations.

The open meeting law permits a public body to hold a closed meeting to discuss strategy and proposals for labor negotiations conducted under the Public Employment Labor Relations Act.⁴³ The statute specifies procedures for tape-recording of these meetings, and for the recordings to become public when negotiations are completed.⁴⁴ Another law permits the Commissioner of the Bureau of Mediation Services to close negotiations and mediation sessions between public employers and public employees. These negotiations are public meetings, unless the commissioner closes them.⁴⁵

The law permits closed meetings based on a limited attorney-client privilege.

In 1976, the Minnesota Supreme Court held that there is a limited exception, based on the attorney-client privilege, for meetings to discuss strategy for threatened or pending litigation.⁴⁶ In 1990, the legislature added the attorney-client exception to the open meeting law.⁴⁷ Although

³⁹ Minn. Stat. § 13D.05, subd. 2.

⁴⁰ Minn. Stat. § 122A.41, subd.

⁴¹ Minn. Stat. § 13D.05, subd. 3.

⁴² Minn. Stat. § 13D.05, subd. 2.

⁴³ Minn. Stat. § 13D.03, subd. 1.

⁴⁴ Minn. Stat. § 13D.03, subd. 2.

⁴⁵ Minn. Stat. § 179A.14, subd. 3.

⁴⁶ *Minneapolis Star & Tribune Co. v. Housing & Redevelopment Auth.*, 310 Minn. 313, 324, 251 N.W.2d 620, 626 (1976).

⁴⁷ Minn. Stat. § 13D.05, subd. 3.

the statute is not limited, the court has since held that the scope of the exception remains limited in relation to the open meeting law.⁴⁸

The attorney-client privilege exception does not apply to a mere request for general legal advice. Nor does it apply when a governing body seeks to discuss with its attorney the strengths and weaknesses of a proposed legislative enactment (like a city ordinance) that may lead to future lawsuits because that can be viewed as general legal advice. Furthermore, discussion of proposed legislation is just the sort of discussion that should be public.⁴⁹

In order to close a meeting under the attorney-client privilege exception, the governing body must give a particularized statement describing the subject to be discussed. A general statement that the meeting is being closed to discuss pending or threatened litigation is not sufficient.⁵⁰

A meeting may be closed to address certain security issues.

If disclosure of the information discussed would pose a danger to public safety or compromise security procedures or responses, a meeting may be closed to:

- receive security briefings and reports,
- discuss issues related to security systems,
- discuss emergency response procedures, and
- discuss security deficiencies in or recommendations regarding public services, infrastructure, and facilities.

Before closing a meeting, the public body must refer to the facilities, systems, procedures, services, or infrastructures to be considered during the closed meeting. A closed meeting must be tape-recorded at the expense of the governing body, and the recording must be preserved for at least four years.

⁴⁸ *Star Tribune v. Board of Ed., Special School Dist. No. 1*, 507 N.W.2d 869 (Minn. App. 1993) *review denied* (Minn. Dec. 22, 1993). The court of appeals did not accept the argument that the statutory exception encompassed the full attorney-client privilege because that would result in the exception swallowing the rule in favor of open meetings. In 2002, the Minnesota Supreme Court restated that the attorney-client privilege exception only applies when the purposes for the exception outweigh the purposes of the open meeting law. In that case, the city council was threatened with a lawsuit if it did not grant a request. The court found that the threat of a lawsuit did not warrant closing the meeting. *Prior Lake American v. Mader*, 642 N.W.2d 729 (Minn. 2002) (en banc). *Cf. Brainerd Daily Dispatch v. Dehen*, 693 N.W.2d 435 (Minn. App. 2005) (applying analysis of *Star Tribune* and *Prior Lake American*, finding threats were sufficiently specific and imminent that confidential consultation with legal counsel appointed by city's insurer to discuss defense strategy or reconciliation to address a threatened lawsuit justified closing the meeting).

⁴⁹ *Star Tribune*, 507 N.W.2d at 872.

⁵⁰ *The Free Press v. County of Blue Earth*, 677 N.W.2d 471 (Minn. App. 2004).

Financial issues related to security matters must be discussed and all related financial decisions must be made at an open meeting.⁵¹

A meeting may be closed to discuss certain issues relating to government property sales or purchases.

A public body may close a meeting to:

- determine the asking price for real or personal property to be sold by the government entity;
- review confidential or nonpublic appraisal data; and
- develop or consider offers or counteroffers for the purchase or sale of real or personal property.

Before holding a closed meeting, the public body must identify on the record the particular property that is the subject of the closed meeting. The proceedings must be tape-recorded at the expense of the public body. The recording must be preserved for eight years after the date of the meeting and made available to the public after all property discussed at the meeting has been purchased or sold or the governing body has abandoned the purchase or sale. The property that is the subject of the closed meeting must be specifically identified on the tape. A list of members and all other persons present at the closed meeting must be made available to the public after the closed meeting. If an action is brought claiming that public business other than discussions allowed under this exception was transacted at a closed meeting held during the time when the tape is not available to the public, the court would review the recording of the meeting *in camera* and either dismiss the action if the court finds no violation, or permit use of the recording at trial (subject to protective orders) if the court finds there is a violation.⁵²

An agreement reached that is based on an offer considered at a closed meeting is contingent on approval of the public body at an open meeting. The actual purchase or sale must be approved at an open meeting after the notice period required by statute or the governing body's internal procedures, and the purchase price or sale price is public data.⁵³

There is a narrow exception for certain meetings of public hospital boards.

Boards of public hospitals and certain health organizations may close meetings to discuss competitive market activities and contracts.⁵⁴

⁵¹ Minn. Stat. § 13D.05, subd. 3.

⁵² Minn. Stat. § 13D.05, subd. 3, referring to § 13D.03, subd. 3.

⁵³ Minn. Stat. § 13D.05, subd. 3. Property appraisal data covered by this law is described in Minnesota Statutes, section 13.44, subdivision 3.

⁵⁴ Minn. Stat. § 144.581, subds. 4 and 5.

On-site inspections by town board members are not subject to the law.

The law does not apply to a gathering of town board members to perform on-site inspections, if the town has no employees or other staff able to perform the inspections and the town board is acting essentially in a staff capacity. The town board must make good faith efforts to provide notice of the inspections to the media that have filed a written request, including a telephone number, for notice. Notice must be by telephone or by any other method used to notify the members of the public body.⁵⁵

The law specifies how it relates to the Government Data Practices Act.

Except as specifically provided, public meetings may not be closed to discuss data that are not public data under the Government Data Practices Act.⁵⁶ Data that are not public may be discussed at an open meeting without liability, if the matter discussed is within the public body's authority and if it is reasonably necessary to conduct the business before the public body.⁵⁷

A portion of a meeting must be closed if the following data are discussed:

- Data that would identify alleged victims or reporters of criminal sexual conduct, domestic abuse, or maltreatment of minors or vulnerable adults
- Active investigative data collected by a law enforcement agency, or internal affairs data relating to alleged misconduct by law enforcement personnel
- Certain types of educational, health, medical, welfare, or mental health data that are not public data
- An individual's medical records governed by the Minnesota Health Records Act, Minnesota Statutes, sections 144.291 to 144.298⁵⁸

The legislature has addressed social media.

In 2014, the legislature added a provision relating to use of social media. "The use of social media by members of a public body does not violate this chapter so long as the social media use is limited to exchanges with all members of the general public. For purposes of this section, e-mail is not considered a type of social media."⁵⁹ "Social media" is not defined.

⁵⁵ Minn. Stat. § 366.01, subd. 11.

⁵⁶ Minn. Stat. § 13D.05, subd. 1.

⁵⁷ Minn. Stat. §§ 13.03, subd. 11; 13.05, subd. 4; and 13D.05, subd. 1.

⁵⁸ Minn. Stat. § 13D.05, subd. 2.

⁵⁹ Minn. Stat. § 13D.065 (added by Laws 2014, ch. 274, § 2).

Penalties

The open meeting law provides a civil penalty of up to \$300 for intentional violation.⁶⁰ A person who is found to have intentionally violated the law in three or more legal actions involving the same governmental body forfeits the right to serve on that body for a time equal to the term the person was serving. The Minnesota Supreme Court has held that this removal provision is constitutional as to removal of elected officials only if the conduct constitutes malfeasance or nonfeasance and provided that the violations occurred after the person had a reasonable amount of time to learn the responsibilities of office.⁶¹

A public body may not pay a civil penalty on behalf of a person who violated the law. However, a public body may pay any costs, disbursements, or attorney fees incurred by or awarded against a member of the body in an action under the open meeting law if the member was found not guilty of a violation.⁶²

A court may award reasonable costs, disbursements, and reasonable attorney fees of up to \$13,000 to any party in an action under the open meeting law. However, the following conditions apply:

- A court may award costs and attorney fees to a defendant only if it finds that the action was frivolous and without merit
- A court may award monetary penalties or attorney fees against a member of a public body only if the court finds there was an intent to violate the open meeting law

The court must award reasonable attorney fees to a prevailing plaintiff if the public body was also the subject of a prior written opinion issued by the Commissioner of Administration, and the court finds that the opinion is directly related to the cause of action being litigated and that the public body did not follow the opinion.⁶³

The appropriate mechanism to enforce the open meeting law is to bring an action in district court seeking injunctive relief or damages. The statute does not provide for a declaratory judgment action.⁶⁴

The Minnesota Supreme Court has held that actions taken at a meeting held in violation of the open meeting law are not invalid or rescindable.⁶⁵

⁶⁰ Minn. Stat. § 13D.06, subd. 1.

⁶¹ Minn. Stat. § 13D.06, subd. 3; *Claude v. Collins*, 518 N.W.2d 836, 843 (Minn. 1994); *see also Brown v. Cannon Falls Township*, 723 N.W.2d 31, 41-44 (Minn. App. 2006) (discussing the statutory history and that since 1994 the statute has required three or more legal actions).

⁶² Op. Att'y Gen. 471-a, Dec. 31, 1992; Minn. Stat. § 13D.06, subd. 4.

⁶³ Minn. Stat. § 13D.06, subd. 4.

⁶⁴ *Rupp v. Mayasich*, 561 N.W.2d 555 (Minn. App. 1997).

⁶⁵ *Sullivan v. Credit River Township*, 299 Minn. 170, 176-177, 217 N.W.2d 502, 507 (Minn. 1974).

Advice

Public bodies subject to the open meeting law may seek advice on the application of the law and how to comply with it from three sources:

- The governmental entity's attorney
- The attorney general⁶⁶
- The Commissioner of Administration⁶⁷

An individual may seek advice from two sources:

- The individual's attorney
- The Commissioner of Administration⁶⁸

An individual who disagrees with the manner in which members of a governing body perform their duties under the open meeting law may request the Commissioner of Administration to give a written opinion on the governing body's compliance with the law.

A governing body or person requesting an opinion of the Commissioner of Administration must pay a \$200 fee if the commissioner issues an opinion.

The commissioner may decide not to issue an opinion. If the commissioner decides not to issue an opinion, the commissioner must notify the requester within five days of receipt of the request. If the commissioner decides to issue an opinion, it must be done within 20 days of the request (with a 30-day extension possible for good cause and notice to the requester). The governing body must be allowed to explain how it performs its duties under the law.

Opinions of the Commissioner of Administration are not binding, but a court must give the opinions deference. However, a governing body that follows an opinion is not liable for fines, attorney's fees or any other penalty, or forfeiture of office.

For more information about open meetings and other issues related to the government, visit the government operations area of our website, www.house.mn/hrd/.

⁶⁶ Under Minnesota Statutes, section 8.06, the attorney general is the attorney for all state officers and boards or commissions created by law. Under Minnesota Statutes, section 8.07, the attorney general, on request from an attorney for a county, city, town, public pension fund, school board, or unorganized area, gives written opinions on matters of public importance.

⁶⁷ Minn. Stat. § 13.072, subs. 1 and 2.

⁶⁸ *Id.*; see <https://mn.gov/admin/data-practices/> for access to prior opinions of the Commissioner of Administration or to find out how to request an opinion.

CHAPTER 13D
OPEN MEETING LAW

13D.01	MEETINGS MUST BE OPEN TO THE PUBLIC; EXCEPTIONS.	13D.04	NOTICE OF MEETINGS.
13D.015	MEETINGS BY TELEPHONE OR OTHER ELECTRONIC MEANS.	13D.05	MEETINGS HAVING DATA CLASSIFIED AS NOT PUBLIC.
13D.02	MEETINGS CONDUCTED BY INTERACTIVE TV; CONDITIONS.	13D.06	CIVIL FINES; FORFEITURE OF OFFICE; OTHER REMEDIES.
13D.021	MEETINGS BY TELEPHONE OR OTHER ELECTRONIC MEANS; CONDITIONS.	13D.065	USE OF SOCIAL MEDIA.
13D.03	CLOSED MEETINGS FOR LABOR NEGOTIATIONS STRATEGY.	13D.07	CITATION.
		13D.08	OPEN MEETING LAW CODED ELSEWHERE.

13D.01 MEETINGS MUST BE OPEN TO THE PUBLIC; EXCEPTIONS.

Subdivision 1. **In executive branch, local government.** All meetings, including executive sessions, must be open to the public

- (a) of a state
 - (1) agency,
 - (2) board,
 - (3) commission, or
 - (4) department,

when required or permitted by law to transact public business in a meeting;

- (b) of the governing body of a
 - (1) school district however organized,
 - (2) unorganized territory,
 - (3) county,
 - (4) statutory or home rule charter city,
 - (5) town, or
 - (6) other public body;
- (c) of any
 - (1) committee,
 - (2) subcommittee,
 - (3) board,
 - (4) department, or
 - (5) commission,

of a public body; and

(d) of the governing body or a committee of:

(1) a statewide public pension plan defined in section 356A.01, subdivision 24; or

(2) a local public pension plan governed by sections 424A.091 to 424A.096, or chapter 354A, or Laws 2013, chapter 111, article 5, sections 31 to 42.

Subd. 2. Exceptions. This chapter does not apply

(1) to meetings of the commissioner of corrections;

(2) to a state agency, board, or commission when it is exercising quasi-judicial functions involving disciplinary proceedings; or

(3) as otherwise expressly provided by statute.

Subd. 3. Subject of and grounds for closed meeting. Before closing a meeting, a public body shall state on the record the specific grounds permitting the meeting to be closed and describe the subject to be discussed.

Subd. 4. Votes to be kept in journal. (a) The votes of the members of the state agency, board, commission, or department; or of the governing body, committee, subcommittee, board, department, or commission on an action taken in a meeting required by this section to be open to the public must be recorded in a journal kept for that purpose.

(b) The vote of each member must be recorded on each appropriation of money, except for payments of judgments, claims, and amounts fixed by statute.

Subd. 5. Public access to journal. The journal must be open to the public during all normal business hours where records of the public body are kept.

Subd. 6. Public copy of members' materials. (a) In any meeting which under subdivisions 1, 2, 4, and 5, and section 13D.02 must be open to the public, at least one copy of any printed materials relating to the agenda items of the meeting prepared or distributed by or at the direction of the governing body or its employees and:

(1) distributed at the meeting to all members of the governing body;

(2) distributed before the meeting to all members; or

(3) available in the meeting room to all members;

shall be available in the meeting room for inspection by the public while the governing body considers their subject matter.

(b) This subdivision does not apply to materials classified by law as other than public as defined in chapter 13, or to materials relating to the agenda items of a closed meeting held in accordance with the procedures in section 13D.03 or other law permitting the closing of meetings.

History: 1957 c 773 s 1; 1967 c 462 s 1; 1973 c 123 art 5 s 7; 1973 c 654 s 15; 1973 c 680 s 1,3; 1975 c 271 s 6; 1981 c 174 s 1; 1983 c 137 s 1; 1983 c 274 s 18; 1984 c 462 s 27; 1987 c 313 s 1; 1990 c 550 s 2,3; 1991 c 292 art 8 s 12; 1991 c 319 s 22; 1994 c 618 art 1 s 39; 1997 c 154 s 2; 1Sp2001 c 10 art 4 s 1; 2010 c 359 art 12 s 3; 1Sp2011 c 8 art 8 s 2,14; 2013 c 111 art 5 s 4,80

13D.015 MEETINGS BY TELEPHONE OR OTHER ELECTRONIC MEANS.

Subdivision 1. **Application.** This section applies to:

(1) a state agency, board, commission, or department, and a statewide public pension plan defined in section 356A.01, subdivision 24; and

(2) a committee, subcommittee, board, department, or commission of an entity listed in clause (1).

Subd. 2. **Conditions.** An entity listed in subdivision 1 may conduct a meeting governed by this section and section 13D.01, subdivisions 1, 2, 4, and 5, by telephone or other electronic means so long as the following conditions are met:

(1) all members of the entity participating in the meeting, wherever their physical location, can hear one another and can hear all discussion and testimony;

(2) members of the public present at the regular meeting location of the entity can hear all discussion and all votes of members of the entity and participate in testimony;

(3) at least one member of the entity is physically present at the regular meeting location; and

(4) all votes are conducted by roll call, so each member's vote on each issue can be identified and recorded.

Subd. 3. **Quorum; participation.** Each member of the entity participating in a meeting by telephone or other electronic means is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

Subd. 4. **Monitoring from remote site; costs.** If telephone or another electronic means is used to conduct a meeting, the entity, to the extent practical, shall allow a person to monitor the meeting electronically from a remote location. The entity may require the person making a connection to pay for documented marginal costs that the entity incurs as a result of the additional connection.

Subd. 5. **Notice.** If telephone or another electronic means is used to conduct a regular, special, or emergency meeting, the entity shall provide notice of the regular meeting location, of the fact that some members may participate by electronic means, and of the provisions of subdivision 4. The timing and method of providing notice is governed by section 13D.04. In addition, the entity must post the notice on its website at least ten days before any regular meeting as defined in section 13D.04, subdivision 1.

History: 2009 c 80 s 1; 2012 c 290 s 63

13D.02 MEETINGS CONDUCTED BY INTERACTIVE TV; CONDITIONS.

Subdivision 1. **Conditions.** (a) A meeting governed by section 13D.01, subdivisions 1, 2, 4, and 5, and this section may be conducted by interactive television so long as:

(1) 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;

(2) 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 members of the body;

(3) at least one member of the body is physically present at the regular meeting location;

(4) all votes are conducted by roll call so each member's vote on each issue can be identified and recorded; and

(5) each location at which a member of the body is present is open and accessible to the public.

(b) A meeting satisfies the requirements of paragraph (a), 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, and:

(1) the member is serving in the military and is at a required drill, deployed, or on active duty; or

(2) the member has been advised by a health care professional against being in a public place for personal or family medical reasons. This clause only applies when a state of emergency has been declared under section 12.31, and expires 60 days after the removal of the state of emergency.

Subd. 2. Members are present for quorum, participation. Each member of a body participating in a meeting by interactive television is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

Subd. 3. Monitoring from remote site; costs. If interactive television is used to conduct a meeting, to the extent practical, a public body shall allow a person to monitor the meeting electronically from a remote location. The body may require the person making such a connection to pay for documented marginal costs that the public body incurs as a result of the additional connection.

Subd. 4. Notice of regular and all member sites. If interactive television is used to conduct a regular, special, or emergency meeting, the public body shall provide notice of the regular meeting location and notice of any site where a member of the public body will be participating in the meeting by interactive television. The timing and method of providing notice must be as described in section 13D.04.

Subd. 5. School boards; interactive technology with an audio and visual link. A school board conducting a meeting under this section may use interactive technology with an audio and visual link to conduct the meeting if the school board complies with all other requirements under this section.

Subd. 6. Record. The minutes for a meeting conducted under this section must reflect the names of any members appearing by interactive television and state the reason or reasons for the appearance by interactive television.

History: 1957 c 773 s 1; 1967 c 462 s 1; 1973 c 123 art 5 s 7; 1973 c 654 s 15; 1973 c 680 s 1,3; 1975 c 271 s 6; 1981 c 174 s 1; 1983 c 137 s 1; 1983 c 274 s 18; 1984 c 462 s 27; 1987 c 313 s 1; 1990 c 550 s 2,3; 1991 c 292 art 8 s 12; 1991 c 319 s 22; 1994 c 618 art 1 s 39; 1997 c 154 s 2; 1Sp2011 c 11 art 2 s 1; 2019 c 33 s 1-3; 2020 c 74 art 1 s 1

13D.021 MEETINGS BY TELEPHONE OR OTHER ELECTRONIC MEANS; CONDITIONS.

Subdivision 1. Conditions. A meeting governed by this section and section 13D.01, subdivisions 1, 2, 4, and 5, may be conducted by telephone or other electronic means so long as the following conditions are met:

(1) the presiding officer, chief legal counsel, or chief administrative officer for the affected 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 an emergency declared under chapter 12;

(2) all members of the body participating in the meeting, wherever their physical location, can hear one another and can hear all discussion and testimony;

(3) 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;

(4) at least one member of the body, chief legal counsel, or chief administrative officer is physically present at the regular meeting location, unless unfeasible due to the health pandemic or emergency declaration; and

(5) all votes are conducted by roll call, so each member's vote on each issue can be identified and recorded.

Subd. 2. Members are present for quorum, participation. Each member of the body participating in a meeting by telephone or other electronic means is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

Subd. 3. Monitoring from remote site; costs. If telephone or another electronic means 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. The body may require the person making a connection to pay for the documented additional cost that the body incurs as a result of the additional connection.

Subd. 4. Notice of regular and all member sites. If telephone or another electronic means 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 other electronic means, and of the provisions of subdivision 3. The timing and method of providing notice is governed by section 13D.04 of the Open Meeting Law.

History: 2007 c 110 s 1

13D.03 CLOSED MEETINGS FOR LABOR NEGOTIATIONS STRATEGY.

Subdivision 1. Procedure. (a) Section 13D.01, subdivisions 1, 2, 4, 5, and section 13D.02 do not apply to a meeting held pursuant to the procedure in this section.

(b) The governing body of a public employer 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 sections 179A.01 to 179A.25.

(c) The time of commencement and place of the closed meeting shall be announced at the public meeting.

(d) A written roll of members and all other persons present at the closed meeting shall be made available to the public after the closed meeting.

Subd. 2. Meeting must be recorded. (a) The proceedings of a closed meeting to discuss negotiation strategies shall be tape-recorded at the expense of the governing body.

(b) The recording shall be preserved for two years after the contract is signed and shall be made available to the public after all labor contracts are signed by the governing body for the current budget period.

Subd. 3. If violation claimed. (a) If an action is brought claiming that public business other than discussions of labor negotiation strategies or developments or discussion and review of labor negotiation

proposals was transacted at a closed meeting held pursuant to this section during the time when the tape is not available to the public, the court shall review the recording of the meeting in camera.

(b) If the court finds that this section was not violated, the action shall be dismissed and the recording shall be sealed and preserved in the records of the court until otherwise made available to the public pursuant to this section.

(c) If the court finds that this section was violated, the recording may be introduced at trial in its entirety subject to any protective orders as requested by either party and deemed appropriate by the court.

History: 1957 c 773 s 1; 1967 c 462 s 1; 1973 c 123 art 5 s 7; 1973 c 654 s 15; 1973 c 680 s 1,3; 1975 c 271 s 6; 1981 c 174 s 1; 1983 c 137 s 1; 1983 c 274 s 18; 1984 c 462 s 27; 1987 c 313 s 1; 1990 c 550 s 2,3; 1991 c 292 art 8 s 12; 1991 c 319 s 22; 1994 c 618 art 1 s 39; 1997 c 154 s 2

13D.04 NOTICE OF MEETINGS.

Subdivision 1. **Regular meetings.** A schedule of the regular meetings of a public body shall be kept on file at its primary offices. If a public body decides to hold a regular meeting at a time or place different from the time or place stated in its schedule of regular meetings, it shall give the same notice of the meeting that is provided in this section for a special meeting.

Subd. 2. **Special meetings.** (a) For a special meeting, except an emergency meeting or a special meeting for which a notice requirement is otherwise expressly established by statute, the public body shall post written notice of the date, time, place, and purpose of the meeting on the principal bulletin board of the public body, or if the public body has no principal bulletin board, on the door of its usual meeting room.

(b) The notice shall also be mailed or otherwise delivered to each person who has filed a written request for notice of special meetings with the public body. 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 for notice of special meetings, the public body may publish the notice once, at least three days before the meeting, in the official newspaper of the public body or, if there is none, in a qualified newspaper of general circulation within the area of the public body's authority.

(d) A person filing a request for notice of special meetings may limit the request to notification of meetings concerning particular subjects, in which case the public body is required to send notice to that person only concerning special meetings involving those subjects.

(e) A public body may establish an expiration date for requests for notices of special meetings pursuant to this subdivision and require refiling of the request once each year.

(f) Not more than 60 days before the expiration date of a request for notice, the public body shall send notice of the refiling requirement to each person who filed during the preceding year.

Subd. 3. **Emergency meetings.** (a) For an emergency meeting, the public body shall make good faith efforts to provide notice of the meeting to each news medium that has filed a written request for notice if the request includes the news medium's telephone number.

(b) Notice of the emergency meeting shall be given by telephone or by any other method used to notify the members of the public body.

(c) 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 members.

(d) Notice shall include the subject of the meeting. Posted or published notice of an emergency meeting is not required.

(e) An "emergency" meeting is a special meeting called because of circumstances that, in the judgment of the public body, require immediate consideration by the public body.

(f) If matters not directly related to the emergency are discussed or acted upon at an emergency meeting, the minutes of the meeting shall include a specific description of the matters.

(g) The notice requirement of this subdivision supersedes any other statutory notice requirement for a special meeting that is an emergency meeting.

Subd. 4. Recessed or continued meetings. (a) 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.

(b) For purposes of this subdivision, the term "meeting" includes a public hearing conducted pursuant to chapter 429 or any other law or charter provision requiring a public hearing by a public body.

Subd. 5. Closed meetings. The notice requirements of this section apply to closed meetings.

Subd. 6. State agencies. For a meeting of an agency, board, commission, or department of the state required or permitted by law to transact public business in a meeting:

(1) the notice requirements of this section apply only if a statute governing meetings of the agency, board, or commission does not contain specific reference to the method of providing notice;

(2) all provisions of this section relating to publication are satisfied by publication in the State Register or posting on the website of the agency, board, commission, or department; and

(3) a schedule of the regular meetings shall be kept on file at the primary offices or posted on the website of the agency, board, commission, or department.

Subd. 7. Actual notice. If a person receives actual notice of a meeting of a public body at least 24 hours before the meeting, all notice requirements of this section are satisfied with respect to that person, regardless of the method of receipt of notice.

History: 1957 c 773 s 1; 1967 c 462 s 1; 1973 c 123 art 5 s 7; 1973 c 654 s 15; 1973 c 680 s 1,3; 1975 c 271 s 6; 1981 c 174 s 1; 1983 c 137 s 1; 1983 c 274 s 18; 1984 c 462 s 27; 1987 c 313 s 1; 1990 c 550 s 2,3; 1991 c 292 art 8 s 12; 1991 c 319 s 22; 1994 c 618 art 1 s 39; 1997 c 154 s 2; 2014 c 274 s 1

13D.05 MEETINGS HAVING DATA CLASSIFIED AS NOT PUBLIC.

Subdivision 1. General principles. (a) Except as provided in this chapter, meetings may not be closed to discuss data that are not public data.

(b) Data that are not public data may be discussed at a meeting subject to this chapter without liability or penalty, if the disclosure relates to a matter within the scope of the public body's authority and is reasonably necessary to conduct the business or agenda item before the public body.

(c) Data discussed at an open meeting retain the data's original classification; however, a record of the meeting, regardless of form, shall be public.

(d) All closed meetings, except those closed as permitted by the attorney-client privilege, must be electronically recorded at the expense of the public body. Unless otherwise provided by law, the recordings must be preserved for at least three years after the date of the meeting.

Subd. 2. When meeting must be closed. (a) Any portion of a meeting must be closed if expressly required by other law or 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 as defined in section 13.82, subdivision 7, or internal affairs data relating to allegations of law enforcement personnel misconduct collected or created by a state agency, statewide system, or political subdivision;

(3) educational data, health data, medical data, welfare data, or mental health data that are not public data under section 13.32, 13.3805, subdivision 1, 13.384, or 13.46, subdivision 2 or 7; or

(4) an individual's medical records governed by sections 144.291 to 144.298.

(b) A public body shall close one or more meetings for preliminary consideration of allegations or charges against an individual subject to its authority. If the 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.

Subd. 3. What meetings may be closed. (a) A public body may close a meeting to evaluate the performance of an individual who is subject to its authority. The public body shall identify the individual to be evaluated prior to closing a meeting. At its next open meeting, the public body 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.

(b) Meetings may be closed if the closure is expressly authorized by statute or permitted by the attorney-client privilege.

(c) A public body may close a meeting:

(1) to determine the asking price for real or personal property to be sold by the government entity;

(2) to review confidential or protected nonpublic appraisal data under section 13.44, subdivision 3; and

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

Before holding a closed meeting under this paragraph, the public body must identify on the record the particular real or personal property that is the subject of the closed meeting. The proceedings of a meeting closed under this paragraph must be tape recorded at the expense of the public body. The recording must be preserved for eight years after the date of the meeting and made available to the public after all real or personal property discussed at the meeting has been purchased or sold or the governing body 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 members and all other persons present at the closed meeting must be made available to the public after the closed meeting. If an action is brought claiming that public business other

than discussions allowed under this paragraph was transacted at a closed meeting held under this paragraph during the time when the tape is not available to the public, section 13D.03, subdivision 3, applies.

An agreement reached that is based on an offer considered at a closed meeting is contingent on approval of the public body at an open meeting. The actual purchase or sale must be approved at an open meeting after the notice period required by statute or the governing body's internal procedures, and the purchase price or sale price is public data.

(d) Meetings may be closed 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. Financial issues related to security matters must be discussed and all related financial decisions must be made at an open meeting. Before closing a meeting under this paragraph, the public body, in describing the subject to be discussed, must refer to the facilities, systems, procedures, services, or infrastructures to be considered during the closed meeting. A closed meeting must be tape recorded at the expense of the governing body, and the recording must be preserved for at least four years.

History: 1957 c 773 s 1; 1967 c 462 s 1; 1973 c 123 art 5 s 7; 1973 c 654 s 15; 1973 c 680 s 1,3; 1975 c 271 s 6; 1981 c 174 s 1; 1983 c 137 s 1; 1983 c 274 s 18; 1984 c 462 s 27; 1987 c 313 s 1; 1990 c 550 s 2,3; 1991 c 292 art 8 s 12; 1991 c 319 s 22; 1994 c 618 art 1 s 39; 1997 c 154 s 2; 1999 c 227 s 22; 2002 c 379 art 1 s 5; 2004 c 276 s 1; 2004 c 290 s 18; 2007 c 110 s 2; 2007 c 147 art 10 s 15; 2008 c 335 s 1; 2010 c 365 art 1 s 8

13D.06 CIVIL FINES; FORFEITURE OF OFFICE; OTHER REMEDIES.

Subdivision 1. **Personal liability for \$300 fine.** Any person who intentionally violates this chapter shall be subject to personal liability in the form of a civil penalty in an amount not to exceed \$300 for a single occurrence, which may not be paid by the public body.

Subd. 2. **Who may bring action; where.** An action to enforce the penalty in subdivision 1 may be brought by any person in any court of competent jurisdiction where the administrative office of the governing body is located.

Subd. 3. **Forfeit office if three violations.** (a) If a person has been found to have intentionally violated this chapter in three or more actions brought under this chapter involving the same governing body, such person shall forfeit any further right to serve on such governing body or in any other capacity with such public body for a period of time equal to the term of office such person was then serving.

(b) The court determining the merits of any action in connection with any alleged third violation shall receive competent, relevant evidence in connection therewith and, upon finding as to the occurrence of a separate third violation, unrelated to the previous violations, issue its order declaring the position vacant and notify the appointing authority or clerk of the governing body:

(c) As soon as practicable thereafter the appointing authority or the governing body shall fill the position as in the case of any other vacancy.

Subd. 4. **Costs; attorney fees; requirements; limits.** (a) In addition to other remedies, the court may award reasonable costs, disbursements, and reasonable attorney fees of up to \$13,000 to any party in an action under this chapter.

(b) The court may award costs and attorney fees to a defendant only if the court finds that the action under this chapter was frivolous and without merit.

(c) A public body may pay any costs, disbursements, or attorney fees incurred by or awarded against any of its members in an action under this chapter.

(d) No monetary penalties or attorney fees may be awarded against a member of a public body unless the court finds that there was an intent to violate this chapter.

(e) The court shall award reasonable attorney fees to a prevailing plaintiff who has brought an action under this section if the public body that is the defendant in the action was also the subject of a prior written opinion issued under section 13.072, and the court finds that the opinion is directly related to the cause of action being litigated and that the public body did not act in conformity with the opinion. The court shall give deference to the opinion in a proceeding brought under this section.

History: 1957 c 773 s 1; 1967 c 462 s 1; 1973 c 123 art 5 s 7; 1973 c 654 s 15; 1973 c 680 s 1,3; 1975 c 271 s 6; 1981 c 174 s 1; 1983 c 137 s 1; 1983 c 274 s 18; 1984 c 462 s 27; 1987 c 313 s 1; 1990 c 550 s 2,3; 1991 c 292 art 8 s 12; 1991 c 319 s 22; 1994 c 618 art 1 s 39; 1997 c 154 s 2; 2008 c 335 s 2

13D.065 USE OF SOCIAL MEDIA.

The use of social media by members of a public body does not violate this chapter so long as the social media use is limited to exchanges with all members of the general public. For purposes of this section, e-mail is not considered a type of social media.

History: 2014 c 274 s 2

13D.07 CITATION.

This chapter may be cited as the "Minnesota Open Meeting Law."

History: 1957 c 773 s 1; 1967 c 462 s 1; 1973 c 123 art 5 s 7; 1973 c 654 s 15; 1973 c 680 s 1,3; 1975 c 271 s 6; 1981 c 174 s 1; 1983 c 137 s 1; 1983 c 274 s 18; 1984 c 462 s 27; 1987 c 313 s 1; 1990 c 550 s 2,3; 1991 c 292 art 8 s 12; 1991 c 319 s 22; 1994 c 618 art 1 s 39; 1997 c 154 s 2

13D.08 OPEN MEETING LAW CODED ELSEWHERE.

Subdivision 1. **Board of Animal Health.** Certain meetings of the Board of Animal Health are governed by section 35.0661, subdivision 1.

Subd. 2. **Minnesota Life and Health Guaranty Association.** Meetings of the Minnesota Life and Health Guaranty Association Board of Directors are governed by section 61B.22.

Subd. 3. **Comprehensive Health Association.** Certain meetings of the Comprehensive Health Association are governed by section 62E.10, subdivision 4.

Subd. 4. **Health Technology Advisory Committee.** Certain meetings of the Health Technology Advisory Committee are governed by section 62J.156.

Subd. 5. **Health Coverage Reinsurance Association.** Meetings of the Health Coverage Reinsurance Association are governed by section 62L.13, subdivision 3.

Subd. 5a. **MNsure.** Meetings of MNsure are governed by section 62V.03, subdivision 2.

Subd. 6. **Self-insurers' security fund.** Meetings of the self-insurers' security fund and its board of trustees are governed by section 79A.16.

Subd. 7. **Commercial self-insurance group security fund.** Meetings of the commercial self-insurance group security fund are governed by section 79A.28.

Subd. 8. **Lessard-Sams Outdoor Heritage Council.** Certain meetings of the Lessard-Sams Outdoor Heritage Council are governed by section 97A.056, subdivision 5.

Subd. 9. **Enterprise Minnesota, Inc.** Certain meetings of the board of directors of Enterprise Minnesota, Inc. are governed by section 116O.03.

Subd. 10. **Minnesota Business Finance, Inc.** Certain meetings of Minnesota Business Finance, Inc. are governed by section 116S.02.

Subd. 11. **Northern Technology Initiative, Inc.** Certain meetings of Northern Technology Initiative, Inc. are governed by section 116T.02.

Subd. 12. **Agricultural Utilization Research Institute.** Certain meetings of the Agricultural Utilization Research Institute are governed by section 116V.01, subdivision 10.

Subd. 13. **Hospital authorities.** Certain meetings of hospitals established under section 144.581 are governed by section 144.581, subdivisions 4 and 5.

Subd. 14. **Advisory Council on Workers' Compensation.** Certain meetings of the Advisory Council on Workers' Compensation are governed by section 175.007, subdivision 3.

Subd. 15. **Electric cooperatives.** Meetings of a board of directors of an electric cooperative that has more than 50,000 members are governed by section 308A.327.

Subd. 16. **Town boards.** Certain meetings of town boards are governed by section 366.01, subdivision 11.

Subd. 17. **Hennepin County Medical Center and HMO.** Certain meetings of the Hennepin County Board on behalf of the HMO or Hennepin Healthcare System, Inc. are governed by section 383B.217.

Subd. 18. **Hennepin Healthcare System, Inc.** Certain meetings of the Hennepin Healthcare System, Inc. are governed by section 383B.917.

Subd. 19. **Real Estate Appraisal Advisory Board.** Certain meetings of the Real Estate Appraisal Advisory Board are governed by section 82B.073, subdivision 5.

History: 2012 c 290 s 64; 2013 c 9 s 2; 2013 c 108 art 1 s 67; 2018 c 173 s 1



CLOSED MEETING LAW SUMMARY

Minnesota’s Open Meeting Law (M.S. Ch. 13D) requires all school board meetings to be open to the public with few exceptions. Before closing a meeting, a public body must begin in an open meeting and state on the record the specific grounds permitting the meeting to be closed and describe the subject to be discussed. A majority vote is needed to close the meeting, with the time and place announced at the public meeting before going into closed session. Please review the specific statute before proceeding to close a meeting. For specific questions, consult with legal counsel.

The School Board MUST Close a Meeting in the Following Situations

<p>Discussion of Not Public Data</p> <p>Minn. Stat. 13D.05, Subd. 2(a)</p>	<p>The school board must close a meeting to discuss certain data that is not public. Any portion of a meeting must be closed if the following types of data are discussed: (a) data that would identify alleged victims or reporters of criminal sexual conduct, domestic abuse, or maltreatment of minors or vulnerable adults; (b) active criminal investigation data; (c) educational data (personally identifiable and not directory information), (d) health data, medical data, welfare data, or mental health data that are not public data; (e) an individual’s medical records. Please see specific definitions of data types under Chapter 13. These closed meetings must be electronically recorded at school district expense. The recording must be preserved for at least three years after the meeting date. The recording is not available to the public.</p>
<p>Preliminary Consideration of Allegations or Charges</p> <p>Minn. Stat. 13D.05, Subd. 2(b)</p>	<p>The school board must close one or more meetings for preliminary consideration of allegations or charges against a school district employee. The employee can request* the meeting be open. If the meeting is closed, it must be electronically recorded at school district expense. The recording must be preserved for at least three years after the meeting date. The recording is not available to the public.</p> <p>If the board determines that discipline of any nature may be warranted as a result of the specific charges or allegations, further meetings or hearings after that conclusion is reached must be open.</p>
<p>Dismissal of a Licensed Teacher</p> <p>Minn. Stat. 122A.40, Subd. 14</p>	<p>A hearing on the dismissal of a licensed teacher must be closed unless the teacher requests* it to be open. If this hearing is closed, it must be electronically recorded at school district expense. The recording must be preserved for at least three years after the date of the meeting. The recording is not available to the public. Please review the statute for specific hearing requirements.</p>
<p>Student Exclusion or Expulsion</p> <p>Minn. Stat. 121A.47, Subd. 5</p>	<p>A hearing on dismissal of a student pursuant to the Pupil Fair Dismissal Act must be closed unless the pupil, parent, or guardian requests* an open hearing. If a student dismissal hearing is held before the school board and is closed, this closed meeting must be electronically recorded at school district expense. The recording must be preserved for at least three years after the date of the meeting. The recording is not available to the public. Please review the statute for specific hearing requirements.</p>

*MSBA recommends requiring that the request be in writing.

These materials are for informational use only and are not to be construed as legal advice. If legal advice is needed, the school district’s legal counsel should be contacted. While current at the time it was created, this document may be later superseded by legislative or other action.

The School Board MAY Close the Meeting in the Following Situations

<p>Labor Negotiation Strategy</p> <p>Minn. Stat. 13D.03</p>	<p>A school board may, by majority vote in a public meeting, decide to close a meeting to consider strategy for labor negotiations. The time and place of the closed meeting shall be announced at the public meeting. A written roll call of members and other persons at the closed meeting must be made available after the meeting. This meeting must be electronically recorded and the recording kept for two years after the contract discussed at the meeting is signed. Recordings will be public after the board signs all collective bargaining agreements for the budget period.</p>
<p>Closed by the Bureau of Mediation Services</p> <p>Minn. Stat. 179A.14, Subd. 3</p>	<p>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 (BMS) or when another exception applies. If BMS closes the meeting, no recording is allowed. Minn. Rules 5510.2810, Subp. 5.</p>
<p>Employee Evaluations</p> <p>Minn. Stat. 13D.05, Subd. 3(a)</p>	<p>A school board may close a meeting to evaluate the performance of an individual who is subject to its authority. The school board must identify (and notify) the individual to be evaluated before closing the meeting. A meeting must be open at the individual's request.* If the evaluation is closed, at the next open meeting, the school board must give a detailed summary of its conclusions regarding the evaluation. This closed meeting must be electronically recorded at school district expense. The recording must be preserved for at least three years after the meeting date. The recording is not available to the public.</p>
<p>Attorney-Client Privilege</p> <p>Minn. Stat. 13D.05, Subd. 3(b)</p>	<p>The school board may close a meeting to consult with the school board's attorney on pending litigation or litigation that appears imminent (not just threatened). If the attorney is not present, the meeting cannot be closed. The school board must describe the subject to be discussed before closing a meeting. A closed meeting under this statute is not required to be recorded.</p>
<p>Property Sale or Purchase</p> <p>Minn. Stat. 13D.05, Subd. 3(c)</p>	<p>The school board may close a meeting to determine the asking price, to review confidential or protected nonpublic appraisal data, or to develop or consider offers to buy or sell real or personal property. The specific property must be identified before closing and on the recording. A list of persons at the meeting must be made publicly available after the meeting. The closed meeting must be electronically recorded and the recording made available after the property is purchased or sold. The recording must be preserved for 8 years after the meeting date.</p>
<p>Security Issues</p> <p>Minn. Stat. 13D.05, Subd. 3(d)</p>	<p>A school board may close a meeting to receive security briefings and reports or to discuss issues related to security systems, emergency response procedures, or 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. Financial issues related to security matters must be discussed and all related financial decisions must be made at an open meeting. Before closing the meeting, the school board must describe the subject to be discussed by referring to the facilities, systems, procedures, services, or infrastructures to be considered during the closed meeting. This closed meeting must be electronically recorded at the school district's expense. The recording must be preserved for at least 4 years after the meeting date.</p>