



Minnesota Statute 13D – Part II

OPEN MEETING LAW

The Minnesota Open Meeting Law, [MN Statute 13D](#), provides specific reasons a Charter School Board and other public bodies may, or are required to, close their meetings to the public. It also prescribes the language that should be used to “notice” that a closed meeting will take place and for which of the authorized reason(s) the meeting is being closed. Further, the law contains requirements for public bodies, including charter school boards, to follow both DURING a closed meeting and AFTER it has been conducted.

These issues of *The Sounding Board* will focus on MN Open Meeting Law and its implications for charter school boards of directors. It will include four parts:

Part 1. Reasons to Close a Charter School Board Meeting and How To Do It

Part 2. Requirements During and After a Closed Meeting

Part 3. Suggested Procedures and Language for Closing Charter School Board Meetings

Part 4. Holding Open Meetings Consistent with MN Statute 13D.

These issues include information from MN Statute 13D that are most pertinent to charter school boards as determined by the Audubon Center of the North Woods (ACNW); however, there may be other provisions of MN Statute 13D that are important in specific situations and the full text of the statute should be referenced for any situations other than those described below.

This paper is not intended to be legal advice. Please check with the school’s legal counsel and / or the full text of the statute for additional information.

Promoting Quality
Charter School
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**Audubon Center
of the North Woods**

Requirements During and After a Closed Meeting: Documenting a Closed Meeting

Recording Closed Meetings

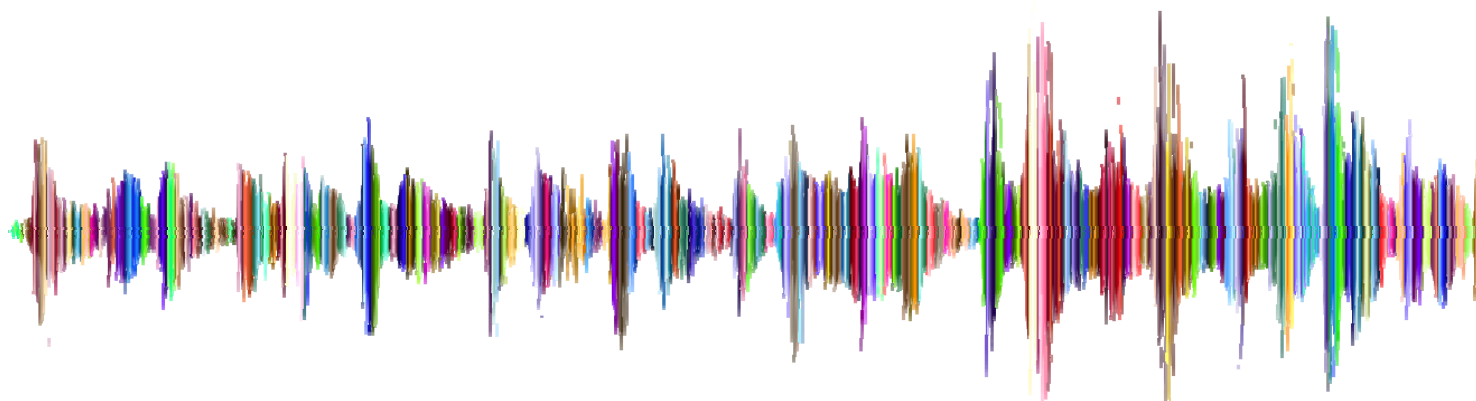
(Statute is in *purple*, ACNW comments are in regular font)

13D.05 Subd. 1(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.

What This Means: Virtually all closed meetings must be electronically recorded. (See Part 1 for information on attorney-client privilege.) These recordings must be kept for at least three years.

What Else This Means: Practically, school boards must plan in advance to have a method to record closed school board meetings and a board approved system to maintain the recordings of its closed meetings for three years from the date of each closed meeting. Care should be taken that over time and through changes in personnel, these closed board meeting recordings are not lost or destroyed; and, the board should consider adopting a policy or prescribe a procedure for the destruction of recorded closed board meetings and the documentation of such destruction (e.g. A perpetual closed meeting recording destruction log that includes date of original closed meeting, date of destruction of the recording, person responsible for the destruction of the recording(s)).

Recording a board meeting in this context is considered to be an audio recording, although there is no prohibition from also recording it in both audio and video formats. The recording process should be robust enough to ensure that all participants in the closed board meeting can be clearly heard on the recording and it is good practice at the beginning of the closed meeting for the board chair to say something like: "This is a closed board meeting of the (xyz) school board being held on (date), under MN Stat. 13D, (specify section and reason). I will ask each person present at this meeting to identify themselves for the record..." Each attendee then states their name. At the conclusion of the meeting, there should be a motion to adjourn the closed meeting, a second, and a vote to adjourn.



Minutes of Closed Meetings or the Results of Closed Meetings

MN Stat.13D.05, Subd.3 (a), 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.

What This Means: In accordance with MN Stat 13D, either after the closed board meeting ends, or at the next subsequent regular board meeting, a brief summary of what took place in the closed meeting is to be provided. See above (MN Stat. 13D.05, Subd. 3) for the reporting requirement and below for specific examples in the identified circumstances.

While the statute only specifies that the board must “summarize its conclusions regarding the evaluation,” best practice would have school boards summarize any conclusions arrived at during the meeting after all closed meetings consistent with data practices acts. For example, if the board discussed allegations that the school director committed a theft during closed meeting and determined that allegations were insufficient to warrant any action by the board, meeting minutes should reference such conclusions, appropriately ensuring private data is kept private consistent with MN Data Practices Act.

What Else This Means: Arriving at conclusions in a closed meeting does not replace the board voting on those conclusions in an open meeting. For example, if the board, in closed session concluded that it would enter into a successor employment agreement with the school director, that action item would then be moved, seconded, and voted on after the board returns to open session. Similarly, if the board concluded that it did not want to enter into a successor employment agreement with its school director, that action item would then be moved, seconded, and voted on after the board returns to open session.

