

Sounding Board

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Ensuring Transparent and Effective Communication Outside of Board Meetings

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As part of your school board's commitment to transparent and effective governance, it is important to understand the boundaries and expectations surrounding communication among board members outside of open board meetings, particularly in relation to the Minnesota Open Meeting Law (OML).

The Minnesota Open Meeting Law (Minn. Stat. Ch. 13D) governs how public school boards, including charter school boards, conduct meetings and ensures that the public has access to decision-making processes within public organizations. The law aims to promote transparency and accountability, and as board members, it is essential that you comply with its provisions.

Below are the key guidelines to ensure your communication remains in compliance.

1. No Serial or Chain Communication

- **What is not allowed:** Board members may not engage in serial or chain communication outside of meetings. This refers to a situation where one board member communicates with another, who then communicates with another, ultimately resulting in a discussion or decision outside of a public meeting. Even informal communication that influences a board member's decision or leads to a consensus or agreement on an issue can violate the law.
- **Example of what to avoid:** A board member discussing any board business with another board member without convening an open board meeting.

2. Discussion of Board Business

- **What is allowed:** Board members are permitted to communicate informally about non-board business matters (such as personal updates or general ideas). However, any discussion of specific board business or topics that will be decided upon by the board should be reserved for open board meetings.
- **Example of allowable communication:** Discussing logistics of an upcoming event or sharing resources for research purposes. However, discussion of those resources should be reserved for the board meeting.

3. Public Access and Notice

- **What is required:** If the board or any group of members is engaging in a discussion or decision-making process, even if done outside of an open meeting, it must comply with the law's public notice and open access requirements. This means that any group discussions about official board business must be properly noticed and open to the public.

- **When to convene a meeting:** If you anticipate needing a discussion or consensus on a matter, it is essential to schedule an open board meeting, properly noticed, to ensure public access and transparency.
- If any board members meet for informational purposes, even if no decisions are being made, the meeting must still comply with the Open Meeting Law. This means it must be open to the public and properly noticed. Whether or not the board plans to vote at that meeting is irrelevant as to whether or not it should be posted. For example, workshops, board retreats, or strategic planning sessions should all be properly noticed and open to the public.

4. Email and Other Electronic Communication

- **What to avoid:** Sending group emails or using messaging platforms (e.g., Slack or text chains) to discuss board business or make decisions can create a "serial meeting" and violate the law.
- **Best Practice:** Generally any communication among board members should be limited to logistical matters, clarification of facts, or general information sharing. A good rule of thumb is for communication outside of board meetings to go only "one way" (i.e. the other members do not respond). Any substantive discussion of board business should be handled in open meetings, with the appropriate agenda and notice provided.
- While the use of social media for public engagement is permissible under the law, email and other direct communication platforms should not be used for discussions among a quorum of board members regarding official business to avoid potential violations of OML.

5. Social Gatherings

- Board members can meet socially; however, board members should not discuss, decide, or receive information regarding board matters during such gatherings.

6. Social Media

- The board's use of social media does not violate the OML as long as the use is limited to communications with the general public. Email is not social media under the OML. Note that the use of social media can be used to support other claims, such as defamation or conflicts of interest. Boards are cautioned to ensure any comments are factually correct and cautioned against commenting on issues that may come before the board.

7. Penalties for Violations

- **What statute says:** Open Meeting Law provides a civil penalty of up to \$300 for intentional violation. 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 charter school board may not pay a civil penalty on behalf of a person who violated the law.

8. Advice

- **What to avoid:** If you ever have questions about what constitutes a violation or need further clarification, don't guess at what you think the correct answer might be!
- **Where to get help:** A governmental entity, such as a charter school board, 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.

- **Other resources:** 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. The Department of Administration's [Data Practices Office](#) handles such requests.
- The Data Practices Office maintains a [searchable opinion library](#) accessible to the public on its website.

Adhering to the Minnesota Open Meeting Law is essential for ensuring transparency, accountability, and public trust in your charter school board's governance processes. By following these guidelines for communication outside of open meetings, you protect the integrity of your decision-making, ensuring that discussions are conducted openly and equitably. It is crucial that board members avoid serial communications or discussions about official business outside of properly noticed meetings, as this violates the law and undermines the public's right to be informed. By maintaining compliance with the Open Meeting Law and communicating appropriately, you fulfill your responsibilities as public servants, supporting an open and accessible decision-making process for the benefit of the community.

Thank you for your commitment to upholding these standards!