Hopkins School Board Workshop
Eisenhower Community Center — Boardroom
6 p.m. — February 20, 2018

I. Open Meeting Law L. Booth

II. School Board Media Communications Guidelines L. Booth
Minnesota’s Open Meeting Law

I. The Open Meeting Law in General

The Open Meeting Law requires that public business be conducted in public. With limited exceptions, all school board meetings must be open to the public. The public has a right to attend the meeting and observe the transaction of public business. Minnesota’s Open Meeting Law (OML) is codified in Minnesota Statutes, Chapter 13D.

An “Open Meeting” is a meeting in which:
1. Proper notice of the meeting was given
2. The public may attend the meeting
3. Relevant materials from the meeting are available to the public

II. Purpose of the Open Meeting Law

The Minnesota Supreme Court has stated that the OML has 3 main purposes:

1) to prohibit government action being taken at a secret meeting,
2) to ensure the public's right to be informed about the decisions of public bodies, and
3) to afford the public an opportunity to present its views to the public body. St. Cloud Newspapers, Inc. v. Dist. 742 Community Schools, 332 N.W.2d 1, 4 (Minn. 1983).

It is important to note that although the courts often say that the Open Meeting Law is to afford the public an opportunity to present its views to the public body, nothing in the OML guarantees the public an opportunity to speak during a meeting.

III. Open Meeting Law Requirements

A. Record of Votes

Under the Open Meeting Law, school districts are required to maintain, in a journal, a record of all votes taken at open meetings. This journal must be available to the public during normal business hours.

Minn. Stat. § 13D.01, subd. 4 and 5.

Note: The OML requires no other record keeping beyond that mentioned above. However, school districts are required to keep records pursuant to other provisions of Minnesota law. For example, officers of the school district must make and preserve all
records necessary to a full and accurate knowledge of their official activities. *Minn. Stat.* § 15.17. The clerk of the board must keep a record of all meetings of the district and the board in books provided by the district for that purpose. *Minn. Stat.* § 123B.14, subd. 7. The board must cause its official proceedings to be published once in the official newspaper of the district within 30 days of the meeting at which such proceedings occurred. *Minn. Stat.* § 123B.09, subd. 10. The proceedings to be published must include the substance of all official actions taken by the school board at any regular or special meeting, and at minimum includes the subject matter of a motion, the persons making and seconding a motion, the roll call vote on a motion, the character of resolutions or ordinances offered, including a brief description of their subject matter, and whether defeated or adopted. *Minn. Stat.* § 331A.01, subd. 6.

**B. Written Materials**

A copy of the agenda must be available to the public during the meeting, along with any written materials prepared by the school district and distributed to members of the school board.

1) This includes written materials distributed to board members during an open meeting, as well as materials distributed before the meeting.

2) Materials classified as nonpublic under the Minnesota Data Practices Act are exempt.

3) Materials relating to agenda items of a closed meeting are exempt.

*Minn. Stat. 13D.01, subd. 6.*

**C. Notice Requirements**

Under the Open Meeting Law, there are three kinds of meetings with varying notice requirements.

1) **Regular meetings** are those meetings which are conducted routinely or on a prescribed schedule. The only notice of regular meetings required by the OML is the requirement that the school district keep a schedule of regular meetings on file at its primary office. *Minn. Stat.* § 13D.04, subd. 1.

2) **Special meetings** are those meetings that are not conducted as part of the normal routine but are planned far enough in advance to be scheduled. The notice requirements for special meetings are as follows:
a. The school district must post a written notice of the date, time, place and purpose of the meeting on the district’s bulletin board; and
b. the notice must be mailed or otherwise delivered at least three days before the meeting to each person who has filed a written request for notice of special meetings. 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. Minn. Stat. § 13D.04, subd. 2.

c. The purpose of the special meeting must include the specific topics to be discussed and acted upon at the special meeting. Board discussion is limited to these topics. A statement such as “other issues may be presented” is not sufficient. Advisory Opinion 04-004, 06-020.
d. As an alternative to mailing the notice, the school district may publish notice in the official newspaper three days prior to the special meeting. Minn. Stat. § 13D.04, subd. 2.

3) Emergency Meetings are those special meetings called because of circumstances that, in the judgment of the school board, require immediate consideration. The notice requirements for emergency meetings are as follows:

a. The Board must make a good faith effort to notify all news mediums that have filed a request for notice of special meetings, either by telephone or any other means. Minn. Stat. § 13D.04, subd 3.

b. Notification of the emergency meeting must include the subject of the meeting. The Commissioner of Administration has stated that an emergency meeting is one where circumstances will not permit the public body to wait the three days to give notice of a special meeting, such as a natural or man-made disaster. Advisory Opinion 04-004.

Recessed meetings. If a school board meeting or committee, special meeting or emergency meeting is recessed or continued, the meeting may be taken up without further notice, provided the time and place of the meeting was established during the previous meeting. Minn. Stat. § 13D.04, subd. 4.
Closed meetings. The notice requirements for closed meetings are the same as the requirements for open meetings. Minn. Stat. § 13D.04, subd. 5. Additionally, before closing a meeting, the board must make a statement on the record that provides: (1) the specific grounds permitting the meeting to be closed, and (2) describes the subject to be discussed. Minn. Stat. § 13D.01, subd. 3.

IV. Workshop Meetings, Committee Meetings, & Social Gatherings

A. Workshop Meetings

Are Workshop Meetings where the board receives information but does not take action subject to the OML? Yes, the Minnesota Supreme Court has held that the OML applies to all gatherings of a governing body, regardless of whether action is taken or contemplated. Thus, informational meetings regarding matters the board currently faces or about matters that might come before the board are subject to the OML. St. Cloud Newspapers, Inc., v. Dist. 742 Schools, 332 N.W.2d 1 (Minn. 1983).

1) Notice and Minutes

Workshops and informational meetings of the board should be noticed as all other “regular” or “special” meetings under the OML, depending on status. Minutes of the workshop or informational meeting should be kept as for regular meetings. Since votes would not be taken at workshop meetings, the minutes may be a short summary of the essential elements of the proceedings.

2) If a quorum of the school board meets privately with a facilitator to “improve trust, relationships, communications, and collaborative problem solving among Board members” does not violate the OML as long as the Board does not “discuss, decide, or receive information as a group relating to the ‘official business’ of the governing body.” Advisory Opinion 16-006.

B. Committee Meetings

The Open Meeting Law states that all committee and subcommittee meetings of a public body must be open to the public. However, the Minnesota Court of Appeals has held that a gathering of public officials is not a “committee” or “subcommittee” subject to the OML unless the group is capable of exercising decision-making powers of the governing body. Sovereign v. Dunn, 498 N.W.2d 62 (Minn. App. 1993).
1) **Quorum**

The court will presume that a committee or working group has the capacity to act on behalf of the board (such that the meeting is subject to the OML) where members of the group comprise a quorum of the board. *Sovereign v. Dunn*, 498 N.W.2d 62.

2) **Decision Making Authority**

Even where members of the group do not constitute a quorum of the board, capacity to act on behalf of the governing body (which renders a gathering subject to the OML) may arise where there has been a delegation of power to the group from the board. *Sovereign*, 498 N.W.2d 62.

3) **Advisory Groups**

Where the group or committee is merely tasked with gathering information and providing advice to the board, and has no ability to make decisions for the board, the group or committee is likely not subject to the OML. *Minnesota Daily v. University of Minnesota*, 432 N.W.2d 189 (Minn. App. 1988), *Advisory Opinion 07-025* (Nov. 2007).

4) **The presence or absence of a Board Member on the committee is not the deciding factor.**

Even an advisory group, working group, or committee that has no board members may be subject to the OML. The nature of the group’s responsibility and authority is the salient question, i.e., is the group making decisions for or on behalf of the board. If so, the meetings must be open to the public.

C. **Social Gatherings**

Hypothetical: Following adjournment of a regular school board meeting, members of the board gather at a nearby restaurant for a social gathering. Is the OML violated?

Yes, if a quorum of the board attends and the group discusses school board business.

1) **Chance or Social Gatherings**
The OML does not apply to chance or social gatherings. *St. Cloud Newspapers*, 332 N.W.2d at 7. Even if a quorum of the school board is present at a social gathering, it is not a meeting under the OML unless the quorum discusses or receives official business related to the school district. Thus, banquets, parties, or other similar events are not meetings under the OML as long as a quorum of the board does not discuss issues that relate to the official business of the school district.

2) **Discussions of School Board Business by a Quorum**

A quorum of the Board may not, as a group, discuss or receive information on official business in any setting under the guise of a private social gathering. *Moberg v. Indep. Sch. Dist. No. 281*, 336 N.W.2d at 518 (Minn. 1983).

3) **Perception**

In the situation contemplated by the above hypothetical, even if board members do not discuss school district business, such meetings may create the perception that the board is deciding matters outside the public eye.

4) **Inadvertent Discussions of School Board Business**

At such gathering, board members must take special care to ensure that they do not find themselves in discussions about school district business without intending to do so.

**Example:** *Are the members of the Drug Formulary Committee in compliance with the Open Meeting Law, Minnesota Statutes, Chapter 13D, when they gather together before each regular meeting behind closed doors?*

Members of the DFC gather before meetings to eat dinner together. The Commissioner concluded that the gatherings did not violate the OML noting that Minnesota courts have indicated that the OML is not violated if the members of a body subject to the OML are at a social gathering together. *See St. Cloud Newspapers*, 332 N.W.2d at 7. However, the Commissioner warned DFC members to take care about the perception created by such gatherings.

While the Commissioner accepts the statements on behalf of the members of the DFC that no business is conducted during dinner, the best way to avoid the appearance of a violation is to eat dinner in an open area. The Commissioner encourages the members of the DFC to change their dining area so that the public can monitor the conversations of the DFC members.
V. Communication

A. Email

School board members discuss school board policy revisions and other school board business via e-mail. Is this a violation of the OML? It depends. Does the e-mail discussion involve a quorum of the board? The legislature did not define the term “meeting” in the OML; however, the Minnesota Supreme Court has ruled that “meetings” subject to the OML are those gatherings of a quorum or more members of a governing body at which members “discuss, decide, or receive information” on issues relating to the official business of that governing body. Moberg, 336 N.W.2d 510, 518.

In one case, an email to a commissioner of the Iron Range Resources and Rehabilitation Board was drafted by one board member and sent to the superintendent. The superintendent printed the letter on school letterhead and sent the letter to the other members of the school board, who signed the letter. This was found to be a violation of the OML because the letter was signed by a quorum of board members, but it was sent without public notice and without a discussion and decision on the contents of the letter in an open meeting. Advisory Opinion 17-005.

Does the e-mail exchange involve less than a quorum, but occur in serial fashion with the intent to forge a consensus and essentially short-circuit discussion at an open meeting? If so, the exchange may violate the OML, depending on the facts of the case.

B. Serial communication by less than a quorum

Serial communication through telephone, letter, or e-mail by less than a quorum with the intent to avoid public discussion, forge a majority in advance of a public meeting, or otherwise circumvent the OML requirements may violate the OML, depending on the facts of the case. See Moberg, 336 N.W.2d at 518, Mankato Free Press Co. v. City of North Mankato, 563 N.W.2d 291, 295 (Minn. App. 1997).

Example: On May 8, 2009, Minneapolis police Deputy Chief Rob Allen received a question from a Star Tribune editorial writer about a Gang Strike Force trip to a gangs conference in Hawaii. Allen, a board member, sent e-mails to other board members suggesting that they issue a news release defending the trip. In the e-mail, Mr. Allen raised several issues and wrote, “I would like the board to consider
issuing a statement similar to” a paragraph he drafted and included in the e-mail. Seven members of the 13 member board responded to Allen’s e-mail as follows:

1. The Sheriff and I looked your memo and the proposed statement over. We like the idea of having this statement on record . . . . If you get consensus on it, we recommend [Mr. Shaver], on behalf of the MGSF Board, take action today and release it.

2. Chief . . . and I reviewed your memo and endorse your recommendation and the immediate action by the board suggested by [commenter #1.]

3. In my view the statement is a good idea and reflects a solidarity on the part of the board. I also feel that as chair of the MGSF Board, Chief Shaver is the person the statement should come from.

4. You did a nice job [in the statement.]

5. I agree with the others.

6. I support the statement and agree [Mr. Shaver] as the chair of the MGSF would be the appropriate person to deliver the message.

7. I support the statement and agree that Chief Shaver as the chair of the MGSF would be the appropriate person to deliver the message.

That same afternoon, Mr. Shaver issued a press release which consisted of the verbatim statement Mr. Allen proposed in his email to Board members and two additional introductory sentences. Mr. Shaver then emailed the Advisory Board that he had taken that action.

*Did this e-mail exchange violate the OML?* The Commissioner of the Department of Administration found that it did.

Here, a quorum of the Board, in addition to receiving information, commented on and provided direction to Mr. Shaver on a matter relating to the official business of the Board.

The Commissioner noted that Minnesota courts have not ruled definitively on the issue of whether an e-mail exchange may constitute a “meeting” for purposes of the OML. However, given the facts here, the Commissioner believed that per *Moberg* and *St. Cloud Newspapers, Inc.*, the conduct of the Advisory Board constituted a meeting, which was required to be public under the OML.

If Mr. Allen had sent his suggestion only to Mr. Shaver, and if Mr. Shaver had taken action without consulting a quorum of the Board, then, in the Commissioner’s view, that conduct would be permissible. The Commissioner
noted that “it seems reasonable that one-way communication between the chair and members of a public body is permissible, such as when the chair or staff sends meeting materials via email to all board members, as long as no discussion or decision-making ensues.”

C. Note regarding telephone, e-mail or other electronic communication.

The legislature has not authorized school boards to conduct meetings via the telephone, e-mail or other electronic means. The only exception to this is in the case of a health pandemic or an emergency declared under state statute. Minn. Stat. § 13D.021. In these instances, a school board may conduct meetings by telephone or other electronic means if certain conditions are met:

- All members can hear one another and hear all discussion and testimony
- All members of the public at the regular meeting location can hear all discussion, testimony, and votes, unless attendance at the regular meeting location is not feasible due to the pandemic or emergency
- At least one member of the school board, chief legal counsel, or superintendent is present at the regular meeting location, unless unfeasible due to the pandemic or emergency
- Votes are conducted by roll call so each member’s vote can be identified and recorded

See Minn. Stat. § 13D.021.

D. Interactive Technology

School boards may conduct a meeting using interactive technology with an audio and visual link as long as certain conditions are met. Minn. Stat. § 13D.02, subd. 5.

Requirements for Meetings via interactive Television:

1) All board members can see and hear one another;
2) The public can see and hear all discussion, testimony, votes;
3) At least one member is at the regular meeting location;
4) All locations are open and accessible to the public.

See Minn. Stat. § 13D.02.
E. One Way E-mail Communication

The Commissioner of Administration has opined that “one-way communication” is likely permissible under the OML, “such as when the chair or staff sends meeting materials via e-mail to all board members, as long as no discussion or decision-making ensues.” Advisory Op. 09-020 (Sept. 2009). The Commissioner has also stated that such an e-mail would constitute “printed material” which must be made available to members of the public at a meeting under the OML. Minn. Stat. § 13D.01, subd. 6, Advisory Op. 08-15.

IV. Exceptions to the Rule that All Meetings Must be Open

Under Minnesota law, school boards must close some types of meetings, and may close certain other meetings. Here is a list of these exceptions to the general rule that school board meetings must be open to the public.

A. Meetings which must be closed

The school board must close meetings when discussions will involve:

1) The identity of alleged victims or reporters of:
   -criminal sexual conduct,
   -domestic violence, and
   -maltreatment of minors or vulnerable adults.

   Minn. Stat. § 13D.05, subd. 2.

2) Active criminal investigations. Minn. Stat. § 13D.05, subd.2(a)(2).

3) Educational data, public health data, public medical data, welfare or mental health data that are not public under Minn. Stat. §§ 13.31, 13.3805, 13.384, 13.46, subd. 2 or 7. Minn. Stat. § 13D.05, subd. 2.

4) An individual’s medical records governed by the MN Health Records Act, sections 144.291 to 144.298. Minn. Stat. § 13D.05, subd. 2.

5) Preliminary consideration of allegations or charges against an individual subject to the school board’s authority. But the meeting must be open at the request of the individual subject to the discussion. Minn. Stat. § 13D.05, subd. 2.

6) Coaches - 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. If the coach requests the reasons for the non-renewal, the school board must give the coach the reasons in writing within 10 days of receiving the request. 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. 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. Minn. Stat. § 122A.33, Subd. 3.


8) Expulsion hearings must be closed unless the student or parent requests an open hearing. Minn. Stat. § 121A.47, subd. 5.

B. Meetings which may be closed

A school board may close a meeting to:

1) Consider strategy for labor negotiations. Minn. Stat. § 13D.03.
   a. The time and place of the closed meeting must be announced at the public meeting and a written roll of all present at the meeting must be available to the public after the meeting.
   b. The meetings must be tape-recorded and preserved for two years after the contract is signed. Note: Labor negotiations and mediation sessions are public meetings except when otherwise provided by the Commissioner of the Bureau of Mediation Services.

2) Evaluate the performance of an individual subject to the board’s authority. Minn. Stat. § 13D.05, subd. 3.
   a. The individual must be identified prior to closing the meeting and the school board must summarize its conclusions at the next open meeting.
   b. The meeting must be open at the request of the individual.

3) If the closure is expressly authorized by statute or permitted by the attorney-client privilege. Minn. Stat. § 13D.05, subd. 3.
4) Discuss certain property transactions and appraisal data. Before holding a closed meeting to discuss these issues, the real or personal property must be identified. The closed meeting must be tape-recorded and preserved for eight years at the expense of the school district and made available to the public after the property has been purchased or sold or the purchase or sale has been abandoned. A list of all persons at the meeting must also be available. Meetings may be closed to:

a. determine asking price for real or personal property to be sold by the government entity. Minn. Stat. § 13D.05, subd. 3(c)(1).

b. review confidential or nonpublic appraisal data under section 13.44. Minn. Stat. § 13D.05, subd. 3(c)(2).

c. develop or consider offers or counteroffers for purchase or sale of real or personal property. Minn. Stat. § 13D.05, subd. 3(c)(3).

5) Receive security briefings and reports and to discuss issues related to security systems, emergency response procedures, security deficiencies if disclosure of the information would pose a danger to public safety.

Before closing the meeting, the board must describe the subject to be discussed. Financial information related to security matters must be discussed at an open meeting and all financial decisions must be made at an open meeting. Before closing a meeting, the board must refer to the facilities, systems, procedures, services, or infrastructures to be considered at the closed meeting. The meeting must be tape-recorded and preserved for four years at the expense of the school district. Minn. Stat. § 13D.05, subd. 3(d).

C. Electronic Record of Closed Meetings

All closed meetings, except those closed as permitted by the attorney-client privilege, must be electronically recorded. Unless otherwise provided by law, the recordings must be preserved for at least three years after the date of the meeting. Minn. Stat. § 13D.05, subd. 1(d).

VI. Violations of the Open Meeting Law

Anyone who believes the school board has violated the open meeting law may take legal action against individual members of the board. This is done by initiating an action in Minnesota district court.
A. **Individual Liability**

An individual board member that violates the OML is subject to personal liability of up to $300 per single occurrence. *Minn. Stat. § 13D.06, subd. 1.* The OML prohibits the school district from paying this civil penalty for the school board member. *Id.* After a third violation, a board member could face removal from office.

B. **Costs and Attorney Fees**

A court may award costs and attorney fees of up to $13,000 against a board member found to have intentionally violated the OML. *Minn. Stat. § 13D.06, subd. 4.* The school district may pay the costs and attorney fees awarded against a school board member. *Id.*

C. **Intent**

Only intentional violations of the OML are subject to penalty. Thus, “good faith” may provide a valid defense. For example, reliance on an attorney’s opinion that the meeting may be closed would likely provide a “good faith” defense.

VII. **Social Media**

School board members’ use of social media does not violate the OML as long as the use of social media is limited to exchanges with all members of the general public. Social media is not defined, but the statute explicitly states that for the purposes of this section, e-mail is not social media. *Minn. Stat. 13D.065.*
OPEN MEETING LAW

“OML”

Minn Stat. § 13D
What is the OML?

- The open meeting law is a statute that applies to public bodies
  - Including School Boards

- The OML requires public bodies to conduct business publicly, or at an open meeting
  - Meetings can be closed under limited circumstances, which will be discussed later

- An “Open Meeting” is a meeting in which:
  - Proper notice of the meeting was given
  - The public may attend the meeting
  - Relevant materials from the meeting are made available to the public
REQUIREMENTS UNDER THE OML
Voting & Materials

- Record of votes taken at open meetings in a journal that is available to the public

- Copies of the agenda and any written materials prepared by the school district must be available to the public
  - Do not need to make the following materials available:
    - Nonpublic data as defined by the Minnesota Data Practices Act
    - Materials relating to agenda items of a closed meeting
Notice Requirements

Notice requirements are dependent on the type of meeting:

- **Regular Meetings**
  - Routine or scheduled meetings
  - District must keep a schedule of regular meetings on file at its primary office

- **Special Meetings**
  - Not a routine meeting, but planned far enough in advance to be scheduled
  - District must post written notice of date, time, place and purpose on the district bulletin board
  - 3 days prior:
    - Mail or deliver notice to individuals who has filed a written request for notice of special meetings,
    - OR
    - Publish notice in the official newspaper in the district
Notice Requirements

- Emergency Meetings
  - Special meetings called because of circumstances that require immediate consideration
  - Good faith effort to notify all news mediums that have filed a request for notice of special meetings by telephone or other means
    - Notification must include the subject of the meeting

- Recessed Meetings
  - If any type of meeting has been recessed or continued, the meeting can be taken up without further notice if the time and place of meeting was established during the meeting that was recessed or continued

- Closed Meetings
  - Same notice requirements as open meetings,
    AND
  - Before the meeting, the board must make a statement on the record that provides
    - Grounds permitting the meeting to be closed
    - Description of subject to be discussed
WHAT IS A “MEETING”? 

workshop meetings, committee meetings, social gatherings, & electronic communication
Does the OML apply to … :

- Workshop or informational meetings where the board receives information about matters that may come before it?
  - Yes! It applies to all gatherings of a governing body, regardless of whether action is taken or contemplated. See St. Cloud Newspapers, Inc. v. Dist. 742 Schools, 332 N.W. 2d 1 (Minn. 1983).

- Privately facilitated meeting to “improve trust, relationships, communications, and collaborative problem solving among board members”?
  - No! The OML does not apply in this situation as long as the Board does not “discuss, decide, or receive information as a group relating to the ‘official business’ of the governing body.” See Advisory Opinion 16-006.

- Committee Meetings?
  - Yes! The OML applies to committee meetings when the group is capable of exercising decision-making powers of the school board.
    - A court will presume that a committee has the capacity to act on behalf of the board where members of the group comprise a quorum of the board. See Sovereign v. Dunn, 498 N.W. 2d 62.
    - Even if the members of the group comprise less than a quorum, the OML may apply where there has been a delegation of power to the group from the board. Id.
Does the OML apply to ...:

- Advisory groups tasked with gathering information and providing advice to the board?
  - No! The OML does not likely apply to a group or committee that has no ability to make decisions for the board. See Advisory Opinion 07-025.

- Social gatherings?
  - Maybe! If a quorum of the board is at a social gathering and discusses school board business, the OML applies. If a quorum of the board is present but does not discuss official business, the OML does not apply.
  - Board members should be careful not to discuss district business at social or chance gatherings.

- Emails between the board?
  - Maybe! If a quorum of the board discuss, decide or receive information relating to the official business of the school board, the OML applies. See Moberg, 336 N.W. 2d at 518.

- Posts on social media?
  - Probably not! As long as the board member’s use of social media is limited to exchanges with all members of the general public.
SERIAL COMMUNICATION

phone, letter, e-mail or conversation of less than a quorum
Does the OML apply to serial communication by less than a quorum?

- Maybe!

- Communication by less than a quorum with the intent to avoid public discussion, forge a majority in advance of a public meeting, or otherwise circumvent the OML may violate the OML.

- One-way email communication is likely permissible, as long as no discussion or decision making ensues. See Advisory Opinion 09-020. However, this type of communication would be “printed material” which must be made available to the public under the OML.
CLOSED MEETINGS

All closed meetings, except those closed due to attorney-client privilege, must be electronically recorded. The recording must be preserved for at least three years after the meeting.
When meetings MUST be closed:

Discussion of:
- Identity of alleged victims or reports of:
  - Criminal sexual conduct
  - Domestic violence
  - Maltreatment of minors or vulnerable adults
- Active criminal investigations
- Educational data, public health data, public medical data, welfare, or mental health data that are not public under the MN Data Practices Act
- Individual’s medical records governed by the MN Health Records Act
- Preliminary consideration of allegations or charges against an individual subject to the school board’s authority
  - Meeting MUST be opened at the request of the individual subject of the discussion
When meetings MUST be closed:

- If the school board has declined to renew the coaching contract of a head varsity coach, it must notify the coach within 14 days of that decision. If the coach requests the reasons for non-renewal, the board must provide the reasons within 10 days of the request. If requested by the coach, the board must provide the coach with a reasonable opportunity to respond at the board meeting. The coach can elect to have an open or closed meeting, unless the meeting is closed to discuss nonpublic data, in which case it must be closed.

- Dismissal hearings can be open or closed at the teacher's discretion.

- Expulsion hearings must be closed unless the student or parent requests an open hearing.
When meetings MAY be closed:

- To consider a strategy for labor negotiations
- To evaluate the performance of an individual subject to the board’s authority
- If expressly authorized by statute
- If permitted by attorney-client privilege
- To discuss certain property transactions and appraisal data
- To receive security briefings and reports and to discuss issues related to security, if disclosure would pose a danger to public safety
VIOLATIONS OF THE OML
◦ INTENT required: Only intentional violations are subject to penalty
  ◦ Good faith is a valid defense

◦ Individual liability – up to $300 per single violation
  ◦ The Board cannot pay on behalf of the individual
  ◦ After 3 violations, the board member could be removed from office

◦ Costs and attorneys fees – a court may award costs and attorneys fees up to $13,000 against a board member who intentionally violated the OML