

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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Anmarie Calgaro,

Case No. 16-CV-3919 (PAM/LIB)

Plaintiff,

vs.

St. Louis County, et al.,

**DECLARATION OF  
ELIZABETH J. VIEIRA  
IN SUPPORT OF DISTRICT  
DEFENDANTS' MOTION TO  
DISMISS**

Defendants.

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I, Elizabeth J. Vieira, declare and state as follows:

1. I am one of the attorneys representing Defendants Independent School District No. 2142, St. Louis County Schools (the "District"), and Principal Michael Johnson (collectively, "District Defendants") in this matter. I make this Declaration based upon personal knowledge and in support of the District Defendants' Motion to Dismiss.

2. Attached to this Declaration are true and correct copies of the following official policies of the District.

- Exhibit A: Policy No. 201(Legal Status of the School Board)
- Exhibit B: Policy No. 208  
(Development, Adoption, and Implementation of Policies)
- Exhibit C: Policy No. 302 (Superintendent)
- Exhibit D: Policy No. 305 (Policy Implementation)

3. These policies are also publicly available on the District's website at:

<http://isd2142.net/page/3074> (last accessed Dec. 15, 2016).

**I declare under penalty of perjury that everything I have stated in this document is true and correct. This declaration was executed on December 15, 2016, in the County of Hennepin, State of Minnesota.**

/s/Elizabeth J. Vieira  
Elizabeth J. Vieira

St. Louis County Schools, ISD 2142  
Adopted: Unknown  
Revised: May 23, 2016

MSBA/MASA Model Policy 201  
Orig. 1995  
Rev. 2009

## **201 LEGAL STATUS OF THE SCHOOL BOARD**

### **I. PURPOSE**

The care, management, and control of the schools is vested by statutory and constitutional authority in the school board. The school board shall carry out the mission of the school district with diligence, prudence, and dedication to the ideals of providing the finest public education. The purpose of this policy is to define the authority, duties, and powers of the school board in carrying out its mission.

### **II. GENERAL STATEMENT OF POLICY**

- A. The school board is the governing body of the school district. As such, the school board has responsibility for the care, management, and control over public schools in the school district.
- B. Generally, elected members of the school board have binding authority only when acting as a school board legally in session, except where specific authority is provided to school board members or officers individually. Generally, the school board is not bound by an action or statement on the part of an individual school board member unless the action is specifically directed or authorized by the school board.

### **III. DEFINITION**

“School board” means the governing body of the school district.

### **IV. ORGANIZATION AND MEMBERSHIP**

- A. The membership of the school board consists of six elected directors, or seven if the school board has submitted the question to the electors and a majority have approved a seven-member school board. The term of office is four years.

*[Note: This number may be different for combining or consolidating school boards that are in a transition period.]*

- B. There may be other ex officio members of the school board as provided by law. The superintendent is an ex officio member.
- C. A majority of voting members constitutes a quorum. The act of the majority of a quorum is the act of the school board.

**V. POWERS AND DUTIES**

- A. The school board has powers and duties specified by statute. The school board's authority includes implied powers in addition to specific powers granted by the legislature.
- B. The school board exercises administrative functions. It also has certain powers of a legislative character and other powers of a quasi-judicial character.
- C. The school board shall superintend and manage the schools of the school district; adopt rules for their organization, government, and instruction; prescribe textbooks and courses of study; and make and authorize contracts.
- D. The school board shall have the general charge of the business of the school district, its facilities and property, and of the interest of the schools.
- E. The school board, among other duties, shall perform the following in accordance with applicable law:
  - 1. provide by levy of tax, necessary funds for the conduct of schools, the payment of indebtedness, and all proper expenses of the school district;
  - 2. conduct the business of the schools and pay indebtedness and proper expenses;
  - 3. employ and contract with necessary qualified teachers and discharge the same for cause;
  - 4. provide services to promote the health of its pupils;
  - 5. provide school buildings and erect needed buildings;
  - 6. purchase, sell, and exchange school district property and equipment as deemed necessary by the school board for school purposes;
  - 7. provide for payment of claims against the school district, and prosecute and defend actions by or against the school district, in all proper cases;
  - 8. employ and discharge necessary employees and contract for other services;
  - 9. provide for transportation of pupils to and from school, as governed by statute; and
  - 10. procure insurance against liability of the school district, its officers, and employees.
- F. The school board, at its discretion, may perform the following:

1. provide library facilities, public evening schools, adult and continuing education programs, summer school programs, and intersession classes of flexible school year programs;
2. furnish school lunches for pupils and teachers on such terms as the school board determines;
3. enter into agreements with one or more other independent school districts to provide for agreed upon educational services;
4. lease rooms or buildings for school purposes;
5. authorize the use of school facilities for community purposes that will not interfere with their use for school purposes;
6. authorize cocurricular and extracurricular activities;
7. receive, for the benefit of the school district, bequests, donations, or gifts for any proper purpose; and
8. perform other acts as the school board shall deem to be reasonably necessary or required for the governance of the schools.

***Legal References:***

Minn. Stat. § 123A.22 (Cooperative Centers)  
Minn. Stat. § 123B.02 (General Powers)  
Minn. Stat. § 123B.09 (School Board Powers)  
Minn. Stat. § 123B.14 (School District Officers)  
Minn. Stat. § 123B.23 (Liability Insurance)  
Minn. Stat. § 123B.49 (Cocurricular and Extracurricular Activities; Insurance)  
Minn. Stat. § 123B.51 (Schoolhouses and Sites; Access for Noncurricular Purposes)  
Minn. Stat. § 123B.85 (Definition)  
*Jensen v. Indep. Consol. Sch. Dist. No. 85*, 160 Minn. 233, 199 N.W. 911 (1924)

***Cross References:***

MSBA/MASA Model Policy 101 (Legal Status of the School District)  
MSBA/MASA Model Policy 202 (School Board Officers)  
MSBA/MASA Model Policy 203 (Operation of the School Board - Governing Rules)  
MSBA/MASA Model Policy 205 (Open Meetings and Closed Meetings)  
MSBA Service Manual, Chapter 1, School District Governance, Powers and Duties

St. Louis County Schools, ISD 2142  
Adopted: Unknown  
Revised: May 23, 2016 *(with revision from MSBA Model Policy)*

MSBA/MASA Model Policy 208  
Orig. 1995  
Rev. 2015

## **208 DEVELOPMENT, ADOPTION, AND IMPLEMENTATION OF POLICIES**

*[Note: The provisions of this policy are recommendations. The procedures for policy development, adoption, and implementation are not specifically provided by statute.]*

### **I. PURPOSE**

The purpose of this policy is to emphasize the importance of the policy-making role of the school board and provide the means for it to continue to be an ongoing effort.

### **II. GENERAL STATEMENT OF POLICY**

Formal guidelines are necessary to ensure the school community that the school system responds to its mission and operates in an effective, efficient, and consistent manner. A set of written policy statements shall be maintained and modified as needed. Policies should define the desire and intent of the school board and should be in a form which is sufficiently explicit to guide administrative action.

### **III. DEVELOPMENT OF POLICY**

- A. The school board has jurisdiction to legislate policy for the school district with the force and effect of law. School board policy provides the general direction as to what the school board wishes to accomplish while delegating implementation of policy to the administration.
- B. The school board's written policies provide guidelines and goals to the school community. The policies shall be the basis for the formulation of guidelines and directives by the administration. The school board shall determine the effectiveness of the policies by evaluating periodic reports from the administration.
- C. Policies may be proposed by a school board member, employee, student or resident of the school district. Proposed policies or ideas shall be submitted to the superintendent for review prior to possible placement on the school board agenda.

### **IV. ADOPTION OF POLICY**

- A. The school board shall give notice of proposed policy changes or adoption of new policies by placing the item on the agenda of two school board meetings. The proposals shall be distributed and public comment will be allowed at both meetings prior to final school board action.
- B. The final action taken to adopt the proposed policy shall be approved by a simple

majority vote of the school board at a subsequent meeting after the meetings at which public input was received. The policy will be effective on the later of the date of passage or the date stated in the motion.

- C. In the case of an emergency, a new or modified policy may be adopted by a majority vote of a quorum of the school board. A statement regarding the emergency and the need for immediate adoption of the policy shall be included in the minutes. The emergency policy shall expire within one year following the emergency action unless the policy adoption procedure stated above is followed and the policy is reaffirmed. The school board shall have discretion to determine what constitutes an emergency situation.
- D. If a policy is modified with minor changes that do not affect the substance of the policy or because of a legal change over which the school board has no control, the modified policy may be approved at one meeting at the discretion of the school board.

## V. IMPLEMENTATION OF POLICY

- A. The superintendent shall be responsible for implementing school board policies, other than the policies that cover how the school board will operate. The superintendent shall develop administrative guidelines and directives to provide greater specificity and consistency in the process of implementation. These guidelines and directives, including employee and student handbooks, shall be subject to annual review and approval by the school board.

*[Note: These policies are found in the 200 Series of the MSBA/MASA Policy Reference Manual.]*

- B. The superintendent shall be responsible for developing a system of periodic review. In addition, the school board shall review the following policies annually: 410 Family and Medical Leave Policy; 413 Harassment and Violence; 414 Mandated Reporting of Child Neglect or Physical or Sexual Abuse; 415 Mandated Reporting of Maltreatment of Vulnerable Adults; 506 Student Discipline; 514 Bullying Prohibition Policy; 522 Student Sex Nondiscrimination; 524 Internet Acceptable Use and Safety Policy; 616 School District System Accountability; and 806 Crisis Management Policy.
- C. When no school board policy exists to provide guidance on a matter, the superintendent is authorized to act appropriately under the circumstances keeping in mind the educational philosophy and financial condition of the school district. Under such circumstances, the superintendent shall advise the school board of the need for a policy and present a recommended policy to the school board for approval.

***Legal References:*** Minn. Stat. § 123B.02, Subd. 1 (School District Powers)  
Minn. Stat. § 123B.09, Subd. 1 (School Board Powers)

***Cross References:*** MSBA/MASA Model Policy 305 (Policy Implementation)

St. Louis County Schools, ISD 2142  
Adopted: November 12, 2001  
Revised: May 23, 2016

MSBA/MASA Model Policy 302  
Orig. 1995  
Rev. 2011

## **302 SUPERINTENDENT**

### **I. PURPOSE**

The purpose of this policy is to recognize the importance of the role of the superintendent and the overall responsibility of that position within the school district.

### **II. GENERAL STATEMENT OF POLICY**

The school board shall employ a superintendent who shall serve as an ex officio, nonvoting member of the school board and as chief executive officer of the school system.

### **III. GENERAL RESPONSIBILITIES**

- A. The superintendent is responsible for the management of the schools, the administration of all school district policies, and is directly accountable to the school board.
- B. The superintendent shall annually evaluate each principal assigned responsibility for supervising a school building in the district.
- C. The superintendent may delegate responsibilities to other school district personnel, but shall continue to be accountable for actions taken under such delegation.
- D. Where responsibilities are not specifically prescribed, nor school board policy applicable, the superintendent shall use personal and professional judgment, subject to review by the school board.

**Legal References:** Minn. Stat. § 123B.143 (Superintendent)

**Cross References:** MSBA/MASA Model Policy 202 (School Board Officers)  
MSBA/MASA Model Policy 208 (Development, Adoption, and Implementation of Policies)  
MSBA/MASA Model Policy 214 (Out-of-State Travel by School Board Members)  
MSBA/MASA Model Policy 301 (School District Administration)  
MSBA/MASA Model Policy 303 (Superintendent Selection)  
MSBA/MASA Model Policy 304 (Superintendent Contract, Duties, and Evaluation)  
MSBA/MASA Model Policy 305 (Policy Implementation)  
MSBA/MASA Model Policy 306 (Administrator Code of Ethics)

MSBA/MASA Model Policy 412 (Expense Reimbursement)  
MSBA/MASA Model Policy 510 (School Activities)  
MSBA/MASA Model Policy 511 (Student Fundraising)  
MSBA/MASA Model Policy 513 (Student Promotion, Retention, and  
Program Design)  
MSBA/MASA Model Policy 602 (Organization of School Calendar and  
School Day)  
MSBA/MASA Model Policy 605 (Alternative Programs)  
MSBA/MASA Model Policy 701 (Establishment and Adoption of School  
District Budget)  
MSBA/MASA Model Policy 704 (Development and Maintenance of an  
Inventory of Fixed Assets and a Fixed Asset Accounting System)  
MSBA/MASA Model Policy 802 (Disposition of Obsolete Equipment and  
Material)  
MSBA/MASA Model Policy 903 (Visitors to School District Buildings and  
Sites)  
MSBA/MASA Model Policy 905 (Advertising)  
MSBA/MASA Model Policy 906 (Community Notification of Predatory  
Offenders)  
MSBA/MASA Model Policy 907 (Rewards)  
MSBA Service Manual, Chapter 3, Superintendent of Schools

St. Louis County Schools, ISD 2142  
Adopted: Unknown  
Revised: May 23, 2016

MSBA/MASA Model Policy 305  
Orig. 1995  
Rev. 1999

## **305 POLICY IMPLEMENTATION**

### **I. PURPOSE**

The purpose of this policy is to clarify the responsibility of the school administration for implementation of school board policy.

### **II. GENERAL STATEMENT OF POLICY**

- A. It shall be the responsibility of the superintendent to implement school board policy and to recommend additions or modifications thereto. The administration is authorized to develop guidelines and directives to effectuate the implementation of school board policies. These guidelines and directives shall not be inconsistent with said policies. At least annually, these written procedures shall be presented to the school board for review.
- B. Employee and student handbooks shall be subject to annual review and approval by the school board.
- C. School principals and other administrators who have handbook responsibilities shall present recommended changes necessary to reflect new or modified policies. Changes of substance within handbooks shall be reviewed by the superintendent to assure compliance with school board policy and shall be approved by the school board.

**Legal References:** Minn. Stat. § 123B.143 (Superintendent)

**Cross References:** MSBA/MASA Model Policy 208 (Development, Adoption, and Implementation of Policies)