

# **The Identity Project**

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March 31, 2026

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c/o Data Practices Office  
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Saint Paul, MN 55155

by email: [info.dpo@state.mn.us](mailto:info.dpo@state.mn.us)

## **Request for advisory opinion**

I am “a person who disagrees with the manner in which members of a governing body perform their duties under chapter 13D” of the Minnesota Statutes. Pursuant to Minnesota Statutes, section 13.072, subdivision 1, I request that the Commissioner give a written opinion on whether the Metropolitan Airports Commission (MAC) is in compliance with chapter 13D, the Minnesota Open Meeting Law.

The MAC is a governing body subject to the Minnesota Open Meeting Law.

Pursuant to the Bylaws of the MAC, Article II, Section 1, “Unless otherwise designated by majority vote of the Commissioners or by action of the Chairperson, regular and special meetings will be held at the Commission's designated meeting room within Terminal 1 at Minneapolis-St. Paul International Airport, presently Room LT-3048A or as it may be relocated within Terminal 1.”<sup>1</sup>

This location is accessible only by passing through a checkpoint operated by the U.S. Transportation Security Administration (TSA), a component of the U.S. Department of Homeland Security (DHS). Passage through this checkpoint is under the sole and exclusive authority and control of the TSA.

1. Metropolitan Airports Commission, Bylaws and Rules of Procedure (effective November 18, 2025), <<https://metroairports.org/documents/bylaws-and-rules-procedure/direct>>.

Neither the MAC nor any Minnesota state, county or municipal agency exercises any authority, control, discretion, or oversight as to who is or is not allowed by the TSA to pass through this checkpoint, or on what conditions of passage.

No Federal statute specifies criteria for passage through such a TSA checkpoint, other than that passengers are required to submit to “screening”, which is undefined.<sup>2</sup> Federal law does not mention any authority for TSA “screening” of non-passengers, such as individuals seeking to attend MAC meetings but not seeking to board airline flights.

Neither the DHS nor the TSA has promulgated any regulations defining “screening” or establishing criteria or procedures for passage through such a checkpoint.

The TSA’s “Standard Operating Procedures” (SOPs) are categorized by the TSA as “Sensitive Security Information” (SSI), and as such are not available to the public.<sup>3</sup>

TSA SOPs create no legal rights for individuals, are not enforceable against the TSA, and can be changed, varied, or waived at any time without notice. TSA SOPs contain elements of randomness, and the TSA’s policy is to vary its actions unpredictably.

While the stated purpose of this unpredictability is to make it more difficult for would-be terrorists to predict whether or not, or on what terms, they will be allowed to pass through any TSA checkpoint, this variability also serves to prevent any law-abiding individual from knowing or predicting whether or not they will be allowed to pass through a checkpoint, or on what terms, even if they have previously been allowed to pass.

The TSA claims standardless authority to decide, in its discretion, whether or on what terms to allow any individual to pass through any checkpoint at any given time.

The TSA algorithm for its “fly/no-fly” decision-making is secret. The ruleset includes a secret “no-fly list” of more than million names, compiled extrajudicially by administrative fiat.<sup>4</sup> The TSA has never sought a judicial no-fly injunction. The ruleset

2. 49 U.S. Code § 44901(a)
3. A heavily redacted version of the TSA’s “Identity Verification Call Center Branch (IVCCB) SOP” version 2.1 (October 7, 2013) was released to the Identity Project in response to a Freedom Of Information Act (FOIA) request. See the Identity Project, “TSA releases redacted ID verification procedures”, May 8, 2018, <<https://papersplease.org/wp/2018/05/08/tsa-releases-redacted-id-verification-procedures/>>. See also U.S. Department of Homeland Security, Office of Inspector General, Report OIG-24-65, September 30, 2024, <<https://www.oig.dhs.gov/sites/default/files/assets/2024-10/OIG-24-65-Sep24-Redacted.pdf#page=11>>, quoting a more recent version of the TSA’s “Checkpoint and Specialized Screening Standard Operating Procedures”, Version 2, June 13, 2022, as they pertain to “individuals without acceptable identification”.
4. The no-fly list as provided to an airline by the TSA was posted on a publicly-accessible cloud server in 2023. The Identity Project, “The #NoFly list is a #MuslimBan list”, January 20, 2023, <<https://papersplease.org/wp/2023/01/20/the-nofly-list-is-a-muslimban-list/>>.

also includes secret “non-list-based” rules, i.e. profiling algorithms based on unknown datasets, criteria, connections, and/or real-time queries, responses, and decisions.<sup>5</sup>

In the only case in which placement of a name on the no-fly list has been reviewed on its merits by a court, the U.S. District Court for the Northern District of California found that the name of Stanford University doctoral candidate Rahinah Ibrahim (later professor and dean at a university in her home country) had been added to the no-fly list by mistake because the FBI agent assigned to interview her didn’t understand how to fill out the negative-checkoff blacklist and watchlist “nomination” form, checked the boxes on the form he was supposed to leave unchecked, and left the boxes empty that he was supposed to check.<sup>6</sup> The final ruling in this case came after fifteen years of litigation, a bench trial<sup>7</sup>, three appeals to the 9th Circuit Court of Appeals, and an unsuccessful petition by the government to the Supreme Court to try to overturn the award to the plaintiff of her attorneys’ fees, which totaled more than \$3 million. The DHS pursued what the 9th Circuit described as a “scorched earth” litigation strategy for years, even after it realized that Dr. Ibrahim’s name had been blacklisted by FBI mistake.<sup>8</sup>

TSA checkpoint staff do not tell an individual to whom they deny passage through the checkpoint the basis, if any, for the denial of passage.

No statute or regulation prescribes procedures or criteria for administrative appeals of decisions by TSA checkpoint staff to deny passage through a checkpoint.

The TSA contends that before seeking judicial review, a person denied passage through a TSA checkpoint must exhaust administrative remedies by submitting an “inquiry” through the TSA Traveler Redress Inquiry Program (TRIP), waiting for a response, requesting TSA review of the response, and then requesting a determination and “final order” by the Administrator of the TSA. The TSA does not say how long these steps may take, but individuals have waited years without a response to TRIP inquiries, or received responses only after filing costly Federal lawsuits against the TSA.

Only after receiving a “final order” from the Administrator of the TSA can an individual petition a U.S. Circuit Court of Appeals to review the “no-fly” order, and then only under rules providing for extraordinary deference to the TSA’s decision.<sup>9</sup> A petition for review by a U.S. Circuit Court of Appeals is slow and expensive.

5. See the Identity Project, “Put them on the no-fly list!”, January 19, 2021, <<https://papersplease.org/wp/2021/01/19/put-them-on-the-no-fly-list/>>, and flowchart of no-fly decision process at <<https://papersplease.org/wp/wp-content/uploads/2021/01/nofly.pdf>>.

6. *Ibrahim v. DHS*, 62 F. Supp. 3d 909 (N.D. Cal. 2014).

7. See links to my daily reports on this trial at, “‘No-fly’ trial in San Francisco this week”, December 2, 2013, <<https://hasbrouck.org/blog/archives/002099.html>>.

8. *DHS v. Ibrahim*, 912 F.3d 1147 (9th Cir. *en banc*, 2019).

9. 49 U.S. Code § 46110

The state of Minnesota has criteria and procedures that are used by state courts every day, most often in cases of domestic violence, for the issuance of restraining orders or injunctions restricting access by specified individuals to specified otherwise-public locations. Neither the MAC nor the TSA has ever used these procedures to seek a court order barring access by an individual to the location where MAC meetings are held.

Whether an individual might pose a danger to a MAC meeting is not a factor in the TSA's decision of whether to allow them to pass through the TSA checkpoint.

According to the MAC website, "To access the board chambers, all individuals must... Present an acceptable REAL ID-compliant form of identification, such as a valid passport. Please note that not all state-issued ID cards are REAL ID compliant."<sup>10</sup>

Not all individuals have, or are eligible for, a "REAL ID-compliant form of identification."

Obtaining a REAL-ID compliant driver's license or state-issued ID requires showing an original birth certificate and evidence of any lifetime name change(s). An individual born abroad, especially a refugee or asylum seeker, may not have their birth certificate if it was lost or stolen in the course of their travel to a place of refuge. They may not be able to obtain a new copy if they were born in the territory of a failed state without an effective birth registry or administration, a conflict zone, or a state from which they have fled and to which they cannot safely return without fear of persecution.

Many women who changed their name in connection with marriage and/or divorce do not have, or have access to, an original official divorce record, especially if a marriage or divorce was concluded abroad, again especially if this was in a country to which it is not now safe for them to return in a quest for copies of archival records.

The primary form of REAL-ID compliant ID for a non-U.S. citizen is a current valid passport. But many foreign citizens do not have current valid passports from their countries of citizenship, even if they are legally present in the U.S. A passport may have been lost or stolen *en route* to the U.S., or may have been refused or withheld. Many repressive regimes withhold passports from persecuted groups and/or individuals, and lack of a passport may be evidence in support of a claim for asylum. Many foreign citizens' passports have expired since they entered the U.S. In many cases, a passport can only be replaced or renewed by returning to the country of issuance, which may be difficult and/or dangerous, especially for an asylum seeker who fears persecution if they return to their country of citizenship to attempt to obtain, renew, or replace a passport.

A stateless person does not have, and by definition is not eligible for, any passport, even if they entered the U.S. lawfully and are lawfully present within the U.S. as an asylum seeker or in other lawful immigration status.

10. "Attending a Commission Meeting", <https://metroairports.org/attending-commission-meeting>.

According to the MAC website, the TSA imposed additional requirements for passage starting February 1, 2026: “Effective Feb. 1, 2026, individuals who do not present an acceptable form of REAL ID at TSA checkpoints may use TSA ConfirmID to attempt to verify their identity Verification is not guaranteed. .... TSA ConfirmID costs \$45, and the MAC will cover this cost.”<sup>11</sup>

The TSA procedure for passage through the checkpoint without REAL-ID compliant ID or with no ID involves some combination of the following steps. Some individuals are subjected to all of these; some only to some subset of them. No statute or regulation defines these procedures or specifies which individuals are to be subjected to which of them. If there are any such specifications, they are contained solely in non-public TSA SOPs which the TSA claims the right to vary or depart from at its discretion.

An individual seeking to pass through a TSA checkpoint without REAL-ID compliant ID, or with no ID, may be required by the TSA to:<sup>12</sup>

1. Pay a \$45 fee, payable only (a) on the Pay.gov website, (b) by credit or debit card or Paypal account accepted by Pay.gov and its payment processor, and (c) by completing a form with personal information (billing address, etc.).<sup>13</sup>
2. Complete TSA Form 415, “Certification of Identity”.<sup>14</sup>
3. Answer a series of questions<sup>15</sup> based on the information contained in the record (if any) about the individual maintained by the Accurint commercial data brokerage.<sup>16</sup>

The TSA’s \$45 Confirm.ID fee, Form 415, and “ID verification” questioning are

11. Metropolitan Airports Commission, “Attending a Commission Meeting”, <<https://metroairports.org/attending-commission-meeting>>.
12. The Identity Project, “REAL-ID FAQ: What will happen at US airports on May 7, 2025?”, <<https://papersplease.org/wp/2025/04/22/real-id-faq-what-will-happen-at-us-airports-on-may-7-2025/>>.
13. The Identity Project, “TSA extorts \$45 from each air traveler without REAL-ID”, January 15, 2026, <<https://papersplease.org/wp/2026/01/15/tsa-extorts-45-from-each-air-traveler-without-real-id/>>.
14. The Identity Project, “TSA never got OMB approval for ‘Certification of ID’ (Form 415)”, May 29, 2013, <<https://papersplease.org/wp/2013/05/29/tsa-never-got-omb-approval-for-certificate-of-id-form-415/>>.
15. The Identity Project, “How does the TSA decide if you are who you say you are?”, June 9, 2016, <<https://papersplease.org/wp/2016/06/09/how-does-the-tsa-decide-if-you-are-who-you-say-you-are/>>.
16. The Identity Project, “Accurint exposed as data broker behind TSA “ID verification”, November 9, 2015, <<https://papersplease.org/wp/2015/11/09/accurint-exposed-as-data-broker-behind-tsa-id-verification/>>.

entirely unlawful. Neither the Confirm.ID page on the Pay.gov website, Form 415, nor the “ID verification” questions have been submitted to or approved by the Office of Management and Budget (OMB) following notice and comment, have been assigned OMB control numbers, or display the OMB control number and other required notices at the point of collection of information, as required by the Paperwork Reduction Act.<sup>17</sup>

The Paperwork Reduction Act provides a “complete defense” against any sanctions imposed for failure to respond to an unapproved collection of information.<sup>18</sup> But this defense can be raised only after an individual is charged with a crime or assessed an administrative fine for attempting to pass through the checkpoint without paying the \$45 fee, completing TSA Form 415, and/or responding to the “ID verification” questions. In practice, such an individual would probably be arrested or detained at the checkpoint and prevented from continuing to the MAC meeting location.

The MAC website says that “the MAC will cover this cost”, but does not say whether individuals must pay the \$45 fee, and then seek reimbursement from the MAC through some unspecified process taking an unspecified amount of time, or if there is some procedure posted at the checkpoint to have the MAC pay the fee.

Neither the Pay.gov nor the TSA.gov websites specify any mechanism for cash payment or administrative appeal if a credit or debit card is declined. No reason is specified if a proffer of payment is declined. Pay.gov’s commercial payment processor thus has unreviewable *de facto* authority to deny passage by declining a form of payment.

Many stateless individuals, even those lawfully present in the U.S., are unable to open bank accounts or obtain credit or debit cards, and use cash for all transactions. Unbanked individuals cannot make payments for “TSA Confirm.ID”.

It’s unclear whether Accurint keeps files on stateless individuals or on any non-U.S. citizens – those individuals who are most likely not to have, or be able to obtain, any REAL-ID compliant identification documents. If Accurint doesn’t have any data or sufficient data in its records about an individual, the TSA may not allow them to pass.

Even if an individual without a REAL-ID compliant identity document is able and willing to pay the TSA Confirm.ID fee, complete TSA Form 415, and answer the “ID verification” questions, the TSA claims the right to refuse them passage.

17. The Identity Project, “TSA plans illegal ID and fee shakedown starting Feb. 1, 2026”, January 29, 2016, <<https://papersplease.org/wp/2026/01/29/tsa-plans-illegal-id-and-fee-shakedown-starting-feb-1-2026/>>; The Identity Project, “TSA Confirm.ID: TSA plans to charge air travelers without ID or without REAL-ID \$3B a year in extra fees for extra questioning”, December 5, 2015, <<https://papersplease.org/wp/2025/12/05/tsa-confirm-id-tsa-plans-to-charge-air-travelers-3b-a-year-in-extra-fees-for-extra-questioning/>>.

18. 44 U.S.Code § 3512

While the MAC livestreams most of its meetings, only those who are allowed to attend in person are allowed to make public comments during MAC meetings.

A meeting location subject to these restrictions and controls by third parties on access is not “open to the public” as required by the Minnesota Open Meeting Law.

I have attached copies of my email correspondence with the MAC regarding this matter. I will be happy to answer any questions or provide any further information that would assist you in issuing an advisory opinion or deciding whether to do so.

Neither I nor the Identity Project is or has been a party to any litigation to which the Metropolitan Airports Commission is or has been a party.

Sincerely,

Edward Hasbrouck  
Consultant on travel-related civil liberties and human rights issues  
The Identity Project

**17 Feb 2026, 9:02**

*From:* Edward Hasbrouck <edward@hasbrouck.org>  
*To:* "Lea, Jeff" <jeff.lea@mspmac.org>  
*Subject:* ID to attend MAC meeting?  
*Copies to:* "Winters, Allison" <Allison.Winters@mspmac.org>  
*Date sent:* Tue, 17 Feb 2026 09:02:11 -0800

I'm working on an article about the new requirements posted on the MAC website for access to the area where the MAC meeting today will be held:

<https://metroairports.org/attending-commission-meeting>

Do you have any comment as to (A) why the MAC is choosing to meet in a location subject to these access controls, and (B) whether the MAC believes it is consistent with the Minnesota Open Meeting Law to:

(1) Require individuals to identify themselves to attend an open meeting (rather than attending anonymously, as they may wish to do if e.g. they fear retaliation for attending or making public comments)?

(2) Require individuals to have or show ID credentials to attend an open meeting?

(3) Require individuals to answer questions from a third party (in this case, the TSA) to attend an open meeting?

(4) Require individuals to pay a fee to attend an open meeting, or limit the number of open meetings an individual may attend without paying a fee? (The MAC website says the MAC will absorb the \$45 TSA fee, but only for up to 3 meetings.)

(5) Grant a third party discretion to decide who will, and who will not, be allowed to attend an open meeting? (The MAC website says that the TSA may not grant access, even if an individual identifies themselves verbally, pays the \$45 fee or the MAC pays it for them, and answers the TSA's questions.)

Thanks for any insight into the MAC's thinking you can provide.

Best regards,

Edward Hasbrouck

**20 Feb 2026, 20:04**

*From:* "Lea, Jeff" <jeff.lea@mspmac.org>  
*To:* Edward Hasbrouck <edward@hasbrouck.org>  
*Copies to:* "Winters, Allison" <Allison.Winters@mspmac.org>  
*Subject:* RE: ID to attend MAC meeting?  
*Date sent:* Fri, 20 Feb 2026 20:04:13 +0000

Mr. Hasbrouck,

Thanks for allowing us to answer the questions you shared with us in your Feb. 17 email.

The Metropolitan Airports Commission (MAC) is in full compliance with the Minnesota Open Meeting Law (OML), as all Committee and Commission meetings are open to the public.

The OML requires that a public body's meetings be open to the public; it does not require a public body to allow the public to attend anonymously or participate anonymously, nor does it preclude a public body from meeting in a location with applicable security requirements. It is common practice for public bodies to meet in locations, like courthouses, that require security screening. This practice is not in conflict with the OML's public access requirement.

As indicated on our meeting agendas, there are multiple ways to obtain REAL ID-compliant identification for a concourse pass to attend a Committee or Commission meeting. In addition, the MAC live streams all Committee and Commission meetings on our website, which offers a convenient option to view the proceedings. The MAC also provides an extensive database of agendas, minutes and video recordings of past meetings.

Outside of formal board meetings, the MAC provides numerous avenues and opportunities for public engagement through community advisory committees, public events, and public hearings at various locations outside of MSP Airport.

Regards,

Jeff

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6-5527%20|%20www.MetroAirports.org>



# Attending a Commission Meeting

Commission board and committee meetings are held within the secure area of Terminal 1 at Minneapolis-St. Paul International Airport (MSP). To access the board chambers, all individuals must:

1. Obtain a concourse security pass.
2. Present an acceptable [REAL ID-compliant form of identification \(https://www.tsa.gov/realid\)](https://www.tsa.gov/realid), such as a valid passport. Please note that not all [state-issued ID cards \(https://dps.mn.gov/divisions/dvs/license-and-id/dl-and-id-card-information\)](https://dps.mn.gov/divisions/dvs/license-and-id/dl-and-id-card-information) are REAL ID compliant
3. Complete screening at a TSA checkpoint.

## Identification requirements

Effective Feb. 1, 2026, individuals who do not present an acceptable form of REAL ID at TSA checkpoints may use TSA ConfirmID to attempt to verify their identity. Verification is not guaranteed.

[TSA ConfirmID \(https://www.tsa.gov/tsaconfirm-id\)](https://www.tsa.gov/tsaconfirm-id) is a fee-based service operated by the federal government. It is designed to enhance security and streamline the verification process for people without a REAL ID that require access through TSA security checkpoints. TSA ConfirmID ensures compliance with federal security standards.

## REAL ID and TSA ConfirmID resources

- [Transportation Security Administration \(https://www.tsa.gov/\)](https://www.tsa.gov/) (TSA)
- [TSA ConfirmID \(https://www.tsa.gov/tsaconfirm-id\)](https://www.tsa.gov/tsaconfirm-id)
- [About TSA ConfirmID \(https://www.tsa.gov/tsaconfirm-id/about-confirmid\)](https://www.tsa.gov/tsaconfirm-id/about-confirmid)
- [TSA ConfirmID FAQs \(https://www.tsa.gov/tsaconfirm-id/confirmid-faqs\)](https://www.tsa.gov/tsaconfirm-id/confirmid-faqs)
- [REAL ID \(https://www.tsa.gov/realid\)](https://www.tsa.gov/realid)

## Plan ahead: Time considerations

Remember to give yourself time to park, obtain a security pass, verify your REAL ID-compliant identification and complete security screening prior to the meeting.

Depending on demand, obtaining a security pass generally takes less than five minutes if you present a REAL ID-compliant identification.

If you do not have an acceptable form of ID, the TSA ConfirmID process may take 30 to 45 minutes. TSA ConfirmID costs \$45, and the MAC will cover this cost.

## Parking and navigation instructions

- Park in Daily Parking at Terminal 1. Please pull a ticket and bring it with you to have it validated at the meeting to avoid parking fees.
- Present a REAL ID-compliant identification photo ID to the personnel at the Information Booth on the Departures Level. They will prepare a security pass for you.
- Use the North security checkpoint to pass through security. You will be asked to show your ID and security pass at that time.
- Once you are through security, proceed to your left. Go through the Airport Mall and look for the signs for the Airport Conference Center above the entrance to Concourse F.
- Use the stairs or elevator to go up one level.

The board meetings take place at the MSP Airport Conference Center on the Mezzanine Level above the Delta Air Lines Sky Club.

For more information, call 612-726-5555.

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