

Reviewed:

211 CRIMINAL OR CIVIL ACTION AGAINST CROSSLAKE COMMUNITY SCHOOLS, SCHOOL BOARD DIRECTOR, EMPLOYEE, OR STUDENT**I. PURPOSE**

The purpose of this policy is to provide guidance about Crosslake Community School's (CCS) position, rights, and responsibilities when a civil or criminal action is pending against CCS, or a school board director, a CCS employee, or student.

II. GENERAL STATEMENT OF POLICY

- A. CCS recognizes that, when civil or criminal actions are pending against a school board director, CCS employee, or student, CCS may be requested or required to take action.
- B. In responding to such requests and/or requirements, CCS will take such measures as are appropriate to its primary mission of providing for the education of students in an environment that is safe for staff and students and is conducive to learning.
- C. CCS acknowledges its statutory obligations with respect to providing assistance to school board directors and teachers who are sued in connection with performance of duties. Collective bargaining agreements and CCS policies may also apply.

III. CIVIL ACTIONS

- A. Pursuant to Minnesota Statutes section 466.07, subdivision 1, CCS shall defend and indemnify any school board director or employee for damages in school-related litigation, including punitive damages, claimed or levied against the school board director or employee, provided that the school board director or employee was acting in the performance of the duties of the position and was not guilty of malfeasance, willful neglect of duty, or bad faith.
- B. Pursuant to Minnesota Statutes Section 123B.25(b), with respect to teachers employed by CCS, upon written request of the teacher involved, CCS must provide legal counsel for any school teacher against whom a claim is made or action is brought for recovery of damages in any tort action involving physical injury to any person or property or for wrongful death arising out of or in connection with the employment of the teacher with the school, CCS will choose legal counsel after consultation with the teacher.
- C. Data Practices
Educational data and personnel data maintained by CCS may be sought as evidence in a civil proceeding. CCS will release the data only pursuant to the Minnesota Government Data Practices Act, Minnesota Statutes chapter 13, and to the Family Educational Rights and Privacy Act, 20 United States Code § 1232g, and related regulations. When an employee is subpoenaed and is expected to testify regarding educational data or personnel data, the employee will inform the designated supervisor, who shall immediately inform the Director(s) or designee. No school board director or employee may release data without consultation in advance with CCS' official designated as the responsible authority for the collection, use, and dissemination of data.
- D. Service of Subpoenas
CCS's officers and employees will normally not be involved in providing service of process for third parties in the school setting.

E. Leave to Testify

Leave for employees appearing in court, either when sued or under subpoena to testify, will be considered in accordance with CCS's personnel policies and applicable collective bargaining agreements.

IV. CRIMINAL CHARGES OR CONDUCT

A. Employees

1. CCS expects that its employees serve as positive role models for students. As role models for students, employees have a duty to conduct themselves in an exemplary manner.
2. If CCS receives information relating to activities of a criminal nature by an employee, CCS will investigate and take appropriate disciplinary action, which may include discharge, subject to CCS' policies, statutes, and provisions of applicable collective bargaining agreements.
3. Pursuant to Minnesota Statutes section 123B.02, subdivision 20, if reimbursement for a criminal defense is requested by a school district employee, the school board may, after consulting with its legal counsel, reimburse the employee for any costs and reasonable attorney fees incurred by the employee to defend criminal charges brought against the employee arising out of the performance of duties for the school district. The decision whether to reimburse shall be made in the school board's discretion. A school board director who is a witness or an alleged victim in the case may not vote on the reimbursement. If a quorum of the school board is disqualified from voting on the reimbursement, the reimbursement must be approved by a judge of the district court.

B. Students

CCS has an interest in maintaining a safe and healthful environment and in preventing disruption of the educational process. To promote that interest, CCS will take appropriate action regarding students convicted of crimes that relate to the school environment.

C. Criminal Investigations

1. The policy of CCS is to cooperate with law enforcement officials. CCS will make all efforts, however, to encourage law enforcement officials to question students and employees outside of school hours and off school premises unless extenuating circumstances exist, the matter being investigated is school-related, or as otherwise provided by law.
2. If questioning at school is unavoidable, CCS will attempt to maintain confidentiality to avoid embarrassment to students and employees and to avoid disruption of the educational program. CCS will attempt to notify parents/guardians of a student under age 18 that police will be questioning their child. Normally, the Director(s) or other appropriate school official will be present during the interview, except as otherwise required by law (Minnesota Statutes section 260E.22), or as otherwise determined in consultation with the parent or guardian.

D. Data Practices

CCS will release to juvenile justice and law enforcement authorities educational and personnel data only in accordance with Minnesota Statutes chapter 13 (Minnesota Government Data Practices Act), 20 United States Code section 232g (FERPA).

V. STATEMENTS WHEN LITIGATION IS PENDING

CCS recognizes that when a civil or criminal action is commenced or pending, parties to the lawsuit have particular duties in reference to persons involved or named in the lawsuit, as well as insurance carrier(s). Therefore, school board directors or school CCS employees shall make or release statements in that situation only in consultation with legal counsel.

Legal References: Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)
Minn. Stat. §§ 121A.40-121A.56 (Pupil Fair Dismissal Act)
Minn. Stat. § 123B.25(b) (Legal Actions Against Districts and Teachers)
Minn. Stat. § 260E.22 (Interviews)
Minn. Stat. § 466.07, Subd. 1 (Indemnification)
20 U.S.C. § 1232g (Family Educational Rights and Privacy Act)
42 U.S.C. § 1983 (Civil Action for Deprivation of Rights)
Minn. Op. Atty. Gen. 169 (Mar. 7, 1963)
Minn. Op. Atty. Gen. 169 (Nov. 3, 1943)
Dypress v. School Committee of Boston, 446 N.E.2d 1099 (Mass. App. Ct. 1983)
Wood v. Strickland, 420 U.S. 308 (1975)

Cross References: MSBA/MASA Model Policy 403 (Discipline, Suspension, and Dismissal of School District Employees)
MSBA/MASA Model Policy 406 (Public and Private Personnel Data)
MSBA/MASA Model Policy 408 (Subpoena of a School District Employee)
MSBA/MASA Model Policy 414 (Mandated Reporting of Child Neglect or Physical or Sexual Abuse)
MSBA/MASA Model Policy 506 (Student Discipline)
MSBA/MASA Model Policy 515 (Protection and Privacy of Pupil Records)

Policy 211 Criminal or Civil Action Against Crosslake Community Schools, School Board **Director**, Employee, or Student is also found in the Staff Handbook.

Policy 211 Criminal or Civil Action Against Crosslake Community Schools, School Board **Director**, Employee, or Student is also found in the Seat-Based Student and Family Handbook.

Policy 211 Criminal or Civil Action Against Crosslake Community Schools, School Board **Director**, Employee, or Student is also found in the Online Student and Family Handbook.