Criminal or Civil Action Against the School District, a School Board Member, Employee, or Student

I. Purpose

This policy provides guidance about the school district's position, rights, and responsibilities when a civil or criminal action is pending against the district, a school board member, an employee, or student.

II. General Statement of Policy

A. The school district recognizes that when civil or criminal actions are pending against the district, a school board member, an employee, or student, the district may be requested or required to take action.

B. In responding to legal requests and/or requirements, the district 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 employees and students and is conducive to learning.

C. The district acknowledges its statutory obligations with respect to providing assistance to its board members and teachers who are sued in connection with performance of district duties. Collective bargaining agreements and district policies may also apply.

III. Civil Actions

A. Pursuant to ~~Minnesota Statutes section 466.07, subdivision 1~~ state law, the school district will defend and indemnify any school board member or district employee for damages in district-related litigation, including punitive damages, claimed or levied against the board member or employee, provided that the board member 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)~~ state law, with respect to teachers employed by the district, upon written request of the teacher involved, the district will

provide legal counsel for any ~~school~~ district 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 district. The district will choose legal counsel after consultation with the teacher.

C. Data Practices

Educational data and personnel data maintained by the district may be sought as evidence in a civil proceeding. The district will release the data only pursuant to the Minnesota Government Data Practices Act, the Family Educational Rights and Privacy Act, and related regulations.

When an employee is subpoenaed and is expected to testify regarding educational data or personnel data, the employee will inform the building administrator or designated supervisor, who will immediately inform the superintendent or designee. No board member or employee may release data without consultation in advance with the district official designated as the responsible authority for the collection, use, and dissemination of data.

D. Service of Subpoenas

Board members 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 district personnel policies and applicable collective bargaining agreements.

IV. Criminal Charges, Conduct, and/or Investigations

A. Employees

1. The school district 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 the district receives information relating to activities of a criminal nature by an employee, the district will investigate and take appropriate disciplinary action, which may include discharge, subject to district policies, statutes, and provisions of applicable collective bargaining agreements.

3. Pursuant to ~~Minnesota Statutes section 123B.02, subdivision 20~~ state law, if reimbursement for a criminal defense is requested by a 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 district. The decision whether to reimburse will be made at the board's discretion. A board member who is a witness or an alleged victim in the case may not vote on the reimbursement. If a quorum of the board is disqualified from voting on the reimbursement, the reimbursement must be approved by a judge of the district court.

B. Students

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

C. Criminal Investigations

1. The district will cooperate with law enforcement officials. The district will, however, encourage law enforcement officials to question students and employees outside of school hours and off district property unless extenuating circumstances exist or the matter being investigated is district-related, or as otherwise provided by law.

2. If questioning at school is unavoidable, the district will attempt to maintain confidentiality, to avoid embarrassment to students and employees, and to avoid disruption of educational programming. District administration will attempt to notify parents/guardians of a student under age 18 that police will be questioning their child. Normally, the superintendent, principal, or other appropriate ~~school~~ district official will be present during the interview, except as otherwise required by law, or as otherwise determined in consultation with the parent or guardian.

D. Release of Information

The district will release to juvenile justice and law enforcement authorities educational and personnel data only in accordance with state and federal law.

V. Statements When Litigation is Pending

The school district 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, when litigation is pending, school board

members or district employees will only make or release statements in consultation with district legal counsel.

Legal References

20 U.S.C. § 1232g	Family Educational Rights and Privacy Act
42 U.S.C. § 1983	Civil Action for Deprivation of Rights
Minn. Stat. Ch. 13	Minnesota Government Data Practices Act
Minn. Stat. §§ 121A.40-121A.56	Pupil Fair Dismissal Act
Minn. Stat. § 123B.02, subd. 20	General Powers of Independent School Districts: Legal Counsel; Reimbursement
Minn. Stat. § 123B.25~~(b)~~	Legal Actions Against Districts and Teachers
Minn. Stat. § 260E.22	Interviews
Minn. Stat. § 466.07, subd. 1	Indemnification: Indemnification Required

Dypress v. School Committee of Boston, 446 N.E.2d 1099 (Mass. App. Ct. 1983)
Wood v. Strickland, 420 U.S. 308 (1975)
Minn. Op. Atty. Gen. 169 (Mar. 7, 1963)
Minn. Op. Atty. Gen. 169 (Nov. 3, 1943)

Cross References

Policy 403	Discipline of School District Employees
Policy 406	Public and Private Personnel Data
Policy 408	Subpoena of a School District Employee
Policy 414	Mandated Reporting of Child Neglect or Physical or Sexual Abuse
Policy 506	Student Conduct and Discipline
Policy 515	Protection and Privacy of Student Records
Policy 519	Interviews of Students by Outside Agencies

Policy

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