

School Board

Criminal or Civil Action Involving the School District

I. Purpose

This policy provides guidance as to the school district's position, rights, and responsibilities when a civil or criminal action is pending involving the district, a 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 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 state law, the school district will defend and indemnify any school board member for damages in district-related litigation, including punitive damages, claimed or levied against the board member, provided that he or she 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. Release of Information

Educational data and personnel data maintained by the district may be sought as evidence in a civil proceeding. The district will release the data in accordance with state and federal law.

No board member may release data without consultation in advance with the superintendent or designee.

C. Service of Subpoenas

The district expects that its board members and employees will not be involved in providing service of process for third parties in the school setting.

IV. Criminal Charges, Conduct, and/or Investigations

A. Criminal Conduct by Individuals

The school district has an interest in maintaining a safe and healthy environment and in preventing disruption of the educational process. To further that interest, the district will take appropriate action regarding students, employees, or board members who are convicted of crimes and/or charged with criminal acts depending on the extent to which the conviction and/or criminal act relate(s) to the school environment.

B. 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 of a student under age 18 that police will be questioning their child. Normally, the superintendent, principal, or other appropriate school official will be present during the interview, except as otherwise required by law (e.g. Minn. Stat. § 626.556, Subd. 10), or as otherwise determined in consultation with the parent or guardian.

C. 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 While 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 make or release statements only 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 (Legal Counsel, Reimbursement)

Minn. Stat. § 123B.25(b) (Actions Against Teachers)

Minn. Stat. § 466.07, Subd. 1 (Indemnification)
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:

Policy 403 (Discipline, Suspension and Dismissal of School District Employees)
Policy 406 (Public and Private Personnel Data)
Policy 408 (Litigation Involving or Subpoena of a School District Employee)
Policy 414 (Mandated Reporting of Child Neglect or Physical or Sexual Abuse)
Policy 506 (Student Discipline)
Policy 515 (Protection and Privacy of Student Records)

Policy adopted: 4/16/07
revised: 3/11/13
revised: 12/17/18

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