



Adopted: 7/12/10

Policy 211

Revised: 3/1/22

First Reading: 3/21/22

211 CRIMINAL OR CIVIL ACTION AGAINST SCHOOL DISTRICT, SCHOOL BOARD MEMBER, EMPLOYEE, OR STUDENT

I. PURPOSE

The purpose of this policy is to provide guidance about ISD 690's position, rights, and responsibilities when a civil or criminal action is pending against ISD 690, or a school board member, school district employee, or student.

II. GENERAL STATEMENT OF POLICY

- A. ISD 690 recognizes that, when civil or criminal actions are pending against a school board member, school district employee, or student, ISD 690 may be requested or required to take action.
- B. In responding to such requests and/or requirements, ISD 690 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. ISD 690 acknowledges its statutory obligations with respect to providing assistance to school board members and teachers who are sued in connection with performance of school district duties. Collective bargaining agreement and school district policies may also apply.

III. CIVIL ACTIONS

- A. Pursuant to Minnesota Statutes 466.07, Subd. 1, ISD 690 shall defend and indemnify any school board member or school district employee for damages in school-related litigation, including punitive damages, claimed or levied against the school board member or employee, provided that the school 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 123B.25(b), with respect to teachers employed by ISD 690, upon written request of the teacher involved, ISD 690 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 ISD 690. ISD 690 will choose legal counsel after consultation with the teacher.



C. Data Practices

Educational data and personnel data maintained by ISD 690 may be sought as evidence in a civil proceeding. ISD 690 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 Codes § 1232g, and related regulations. When an employee is subpoenaed and is expected to testify regarding educational data or personnel data, to the employee will inform the building administrator or designated supervisor, who shall immediately inform the superintendent or designee. No school board member or employee may release data without consultation in advance with ISD 690 official designated as the responsible authority for the collection, use and dissemination of data.

D. Service of Subpoenas

ISD 690 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 school district personnel policies and applicable collective bargaining agreements.

IV. **CRIMINAL CHARGES OR CONDUCT**

A. Employees

1. ISD 690 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 ISD 690 receives information relating to activities of a criminal nature, by an employee, ISD 690 will investigate and take appropriate disciplinary action, which may include discharge, subject to school district policies, statutes, and provisions of applicable collective bargaining agreements.
3. Pursuant to Minnesota Statutes section 123B.02, Subd. 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 ISD 690. The decision whether to reimburse shall be made in the school board's discretion. A school board member 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

ISD 690 has an interest in maintaining a safe and healthful environment and in preventing disruption of the educational process. To promote that interest, ISD 690 will take appropriate action regarding students convicted of crimes that relate to the school environment.

C. Criminal Investigations

1. It is the policy of ISD 690 to cooperate with law enforcement officials. ISD 690 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, ISD 690 will attempt to maintain confidentiality, to avoid embarrassment to students and employees and to avoid disruption of the educational program. ISD 690 will make every 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 (Minnesota Statutes section 260E.22), or as otherwise determined in consultation with the parent or guardian.

D. Data Practices

ISD 690 will release to juvenile justice and law enforcement authorities educational and personnel data only in accordance with Minnesota Statutes 13 (Minnesota Government Data Practices Act) and 20 United States Code section 1232g (FERPA).

V. STATEMENTS WHEN LITIGATION IS PENDING

ISD 690 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 members or school district 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.02, Subd. 20 (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)
20 U.S.C. § 1232g (Family Educational Rights and Privacy Act)
42 U.S.C. § 1983 (Civil Action for Deprivation of Rights)
Op. Atty. Gen. 169 (Minn, Mar. 7, 1963)
Op. Atty. Gen. 169 (Minn, Nov. 3, 1943)
Dyppress v. School Committee of Boston, 446 N.E.2d 1099 (Mass. App. Ct. 1983)
Wood v. Strickland, 420 U.S. 308 (1975)

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