

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

I. PURPOSE

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

II. GENERAL STATEMENT OF POLICY

- A. The Every Child Has Opportunities Charter School district recognizes that, when civil or criminal actions are pending against a school board member, school district employee, or student, the school district may be requested or required to take action.
- B. In responding to such requests and/or requirements, the school 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 staff and students, and is conducive to learning.
- C. The school district 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. Employee contract agreements and school district policies may also apply.

III. CIVIL ACTIONS

- A. Pursuant to Minn. Stat. 466.07, Subd. 1, the E.C.H.O. school district 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 they were acting in the performance of the duties of the position and were not guilty of malfeasance, willful neglect of duty, or bad faith.
- B. Pursuant to Minn. Stat. 123B.25(b), with respect to teachers employed by the school district, upon written request of the teacher involved, the school district shall 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 district. The school district will choose legal counsel after consultation with the teacher.

- C. Data Practices. Educational data and personnel data maintained by the school district may be sought as evidence in a civil proceeding. The school district will release the data only pursuant to the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, and to the Family Educational Rights and Privacy Act, 20 U.S.C. Stat. 1232g and related regulations. When an employee is subpoenaed and is expected to testify regarding educational data or personnel data, they will inform the director or designated supervisor, who shall immediately inform the director or designated as authority responsible for the collection, use and dissemination of data.
- D. Service of Subpoenas. It is the policy of the school district that its 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 contract agreements.

IV. CRIMINAL CHARGES OR CONDUCT

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

B. Students.

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

C. Criminal Investigations

1. It is the policy of the E.C.H.O. school district to cooperate with law enforcement officials. The school district will make all efforts however, to encourage law enforcement officials to question students and employees outside of school hours and off school premises unless there are extenuating circumstances or the matter being investigated is school-related, or as provided by law.
2. If such questioning at school is unavoidable, the school district will attempt to maintain confidentiality, to avoid embarrassment to students and employees and to avoid disruption of the educational program. The school district will

attempt to notify parents/guardians of a student under age 18 that police will be questioning their child. Normally, the director, or other appropriate school officials, will be present during the interview, except as otherwise required by law (Minn. Stat. 626.556, Subd.10), or as otherwise determined in consultation with the parent or guardian.

D. Data Practices

1. The school district will release to law enforcement authorities educational and personnel data only in accordance with Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act) and 20U.S.C. 1232g (FERPA).

X. STATEMENTS WHEN LITIGATION IS PENDING

A. 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, 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.25(b) (actions against teachers)
 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 depriving rights)
 Op. Atty. Gen. 169 (Minn. Mar. 7, 1963)
 Op. Atty. Gen. 169 (Minn. Nov. 3, 1943)
Dyppress v. School committee of Boston, 446 NE 2nd 1099 (Mass. App. Ct. 1983)
Wood v. Strickland, 420 U.S. 308, 95 S. Ct. 992, 43 L.Ed.2d 14 (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)

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