

Technical Academies of Minnesota

Adopted: Orig. 6/22/2013

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

I. PURPOSE

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

II. GENERAL STATEMENT OF POLICY

- A. The District recognizes that, when civil or criminal actions are pending against a School Board member, District employee, or student, the District may be requested or required to take action.
- B. In responding to such 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 staff and students and is conducive to learning.
- C. The District acknowledges its statutory obligations with respect to providing assistance to School Board members and teachers who are sued in connection with performance of District duties.

III. CIVIL ACTIONS

- A. Pursuant to Minn. Stat. § 466.07, Subd. 1, the District shall defend and indemnify any School Board member or District employee for damages in school-related litigation, including punitive damages, claimed or levied against the School Board member or employee, 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. Pursuant to Minn. Stat. § 127.03, Subd. 2, with respect to teachers employed by the District, upon written request of the teacher involved, the 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 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, Minn. Stat. Ch. 13, and to the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g and related regulations. When an employee is subpoenaed and is expected to testify regarding educational data or personnel data, he or she is to inform the Board Chairperson. No School Board member or staff member may release data without consultation in advance with the District official who is designated as the authority responsible for the collection, use and dissemination of data.

D. Service of Subpoenas

It is the policy of the District that its School Board members and staff will normally not be involved in providing service or process for third parties in the District 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 OR CONDUCT

A. Employees

1. The District expects that its staff members serve as positive role models for students. As role models for students, staff members 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 school will investigate and take appropriate action, which may include recommendation to BRIDES or termination.
3. Pursuant to Minn. Stat. § 123B.02, Subd. 20, 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 as to whether to reimburse shall be made at the discretion of the School Board. 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.

B. Students

The 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 District will take appropriate action regarding students convicted of crimes as it relates to the school environment.

C. Criminal Investigations.

1. It is the policy of the District to cooperate with law enforcement officials. The District will make all efforts, however, to encourage law enforcement officials to question students and staff members outside of school hours and off District premises unless there are extenuating circumstances or the matter being investigated is school-related, or as otherwise provided by law.
2. If such questioning at the District is unavoidable, the District will attempt to maintain confidentiality and to avoid embarrassment to the students and staff members and to avoid disruption of the educational program. The District will attempt to notify parents of a student under age 18 that police will be questioning their child. Normally, a staff member 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

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

V. STATEMENTS WHEN LITIGATION IS PENDING

The 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 staff members 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 (Fair Pupil 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)
20 U.S.C. § 1232g (Family Educational Rights and Privacy Act)
42 U.S.C. § 1983 (Civil Action for Deprivation Rights)
Op. Atty. Gen. 169 (Minn, Mar. 7, 1963)
Op. Atty. Gen. 169 (Minn, 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, 95 S.Ct. 992, 43 L.Ed.2d 214 (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)