

Policy 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 Northfield 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 district recognizes that, when civil or criminal action is pending against a 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 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, subd. 1, the district shall defend and indemnify any board member or district employee for damages in school-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), with respect to teachers employed by the district, upon written request of the teacher involved, the district must provide legal counsel for any 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, Minnesota Statutes Chapter 13 and to the Family Educational Rights and Privacy Act, 20 United States Code 1232g, 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 shall immediately inform the superintendent or designee. No board member or employee may release data without written authorization and consultation in advance from the district official who is designated as the responsible authority for the collection, use, and dissemination of data.

D. Service of Subpoenas

District 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 district personnel policies and applicable collective bargaining agreements.

IV. **CRIMINAL CHARGES OR CONDUCT**

A. Employees

1. The 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, Subd. 20, if reimbursement for a criminal defense is requested by a district employee, the 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 shall 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 environment.

C. Criminal Investigations

1. The policy of the district is to cooperate with law enforcement officials. The 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 extenuating circumstances exist, the matter being investigated is school-related, or as otherwise provided by law.
2. If questioning at school is unavoidable, law enforcement officers may interview students on campus about issues outside of the school's jurisdiction only when parents/guardians have granted permission. The interview will take place in a closed room away from the view of students and adults. An administrator may be in attendance except as otherwise required by law (Minnesota Statutes Section 260E.22), or as otherwise determined in consultation with the parent/guardian.

D. Data Practices

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

V. **STATEMENTS WHEN LITIGATION IS PENDING**

The district recognizes that when a civil or criminal action has commenced or is 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, board members or district employees shall make or release statements in that situation only in consultation with legal counsel.

Policy 211 Criminal or Civil Action Against School District, School Board Member, Employee or Student

Adopted: 01.24.2005; Revised: 2006, 07.01.19; Statutory Update: 02.08.2022; Updated: 05.22.2023

Board of Education

INDEPENDENT SCHOOL DISTRICT NO. 659

Northfield, Minnesota

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: Policy 403 (Discipline, Suspension and Dismissal 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)
MSBA/MASA Model Policy 506 (Student Discipline)
MSBA/MASA Model Policy 515 (Protection and Privacy of Pupil Records)