

ASPEN ACADEMY

Adopted:

Revised: 3-2010, 7-19-16

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

I. PURPOSE

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

II. GENERAL STATEMENT OF POLICY

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

III. CIVIL ACTIONS

- A. Pursuant to Minn. Stat. § 466.07, Subd. 1, the school shall defend and indemnify any school board member or school 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. §123B.25(b), with respect to teachers employed by the school, upon written request of the teacher involved, the school 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. The school will choose legal counsel after consultation with the teacher.

C. Data Practices

Educational data and personnel data maintained by the school may be sought as evidence in a civil proceeding. The school 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 building administrator or designated supervisor, who shall immediately inform the Director or designee. No school board member or employee may release data without consultation in advance with the school 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 school that its board members 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 personnel policies.

IV. **CRIMINAL CHARGES OR CONDUCT**

A. Employees

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

B. Board Members

1. The school expects that its board members to serve as positive role models for students and staff. As role models for students and staff, board members have a duty to conduct themselves in an exemplary manner.
2. If the school receives information relating to activities of a criminal nature, by a board member, the school will investigate and take appropriate disciplinary action, which may include dismissal, subject to school policies and statutes.

C. Students

The school 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 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 school to cooperate with law enforcement officials. The school 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 otherwise provided by law.
2. If such questioning at school is unavoidable, the school will attempt to maintain confidentiality, to avoid embarrassment to students and employees and to avoid disruption of the educational program. The school will attempt to notify parents of a student under age 18 that police will be questioning their child. Normally, the Director or other appropriate school official 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 school will release to 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 school 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

employees shall make or release statements in that situation only in consultation with legal counsel.