

Adopted: _____

MSBA/MASA Model Policy 211

Orig. 1995

Revised: 3-2010, 7-19-16, 11-21-22

Rev. 2022

Reviewed: _____

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

I. PURPOSE

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

II. GENERAL STATEMENT OF POLICY

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

III. CIVIL ACTIONS

- A. Pursuant to Minnesota Statutes section 466.07, subdivision 1, the charter school shall defend and indemnify any charter school board member or charter school employee for damages in school-related litigation, including punitive damages, claimed or levied against the charter school board member or employee, provided that the charter 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. Notwithstanding Minnesota Statutes section [3.736](#), the charter school shall assume full liability for its activities and indemnify and hold harmless the authorizer and its officers, agents, and employees from any suit, claim, or liability arising from any operation of the charter school and the commissioner and department officers, agents, and employees. A charter school is not required to indemnify or hold harmless a state employee if the state would not be required to indemnify and hold the employee harmless under Minnesota Statutes section 3.736, subdivision 9.
- C. Data Practices

Educational data and personnel data maintained by the charter school may be sought as evidence in a civil proceeding. The charter school 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 executive director or designee. No charter school board member or employee may release data without consultation in advance with the charter school official designated as the responsible authority for the collection, use, and dissemination of data.

D. Service of Subpoenas

Charter school 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 charter school personnel policies and applicable agreements.

IV. CRIMINAL CHARGES OR CONDUCT

A. Employees

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

B. Students

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

C. Criminal Investigations

1. The policy of the charter school is to cooperate with law enforcement officials. The charter 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 extenuating circumstances exist, the matter being investigated is school-related, or as otherwise provided by law.
2. If questioning at school is unavoidable, the charter school will attempt to maintain confidentiality to avoid embarrassment to students and employees and to avoid disruption of the educational program. The charter school will attempt to notify parents of a student under age 18 that police will be questioning their child. Normally, the executive director, 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

The charter school 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),²⁰ United States Code section 1232g (FERPA), or other federal or state law.

V. **STATEMENTS WHEN LITIGATION IS PENDING**

The charter 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, charter school board members or charter school 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. § 121A.75 (Receipt of Records; Sharing)
Minn. Stat. § 124E.03, Subd. 2(j) (Applicable Law)
Minn. Stat. § 124E.09 (Extent of Specific Legal Authority)
Minn. Stat. § 260B.171, Subds. 3 and 5 (Records)
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)
Minn. Op. Atty. Gen. 169 (Mar. 7, 1963)
Minn. Op. Atty. Gen. 169 (Nov. 3, 1943)
Wood v. Strickland, 420 U.S. 308 (1975)

Cross References: MSBA/MASA Model Policy 403 (Discipline, Suspension, and Dismissal of Charter School Employees)
MSBA/MASA Model Policy 406 (Public and Private Personnel Data)
MSBA/MASA Model Policy 408 (Subpoena of a Charter School 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)