Adopted: 1/18/2016

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ROCHESTER BEACON ACADEMY
POLICY No. 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 Rochester Beacon Academy's ("RBA") position, rights, and responsibilities when a civil or criminal action is pending against RBA, or an RBA board member, RBA employee, or RBA student.

II. GENERAL STATEMENT OF POLICY

A. RBA recognizes that, when civil or criminal actions are pending against a board member, employee, or student, RBA may be requested or required to take action.

B. In responding to such requests and/or requirements, RBA 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. RBA acknowledges its statutory obligations with respect to providing assistance to board members and teachers who are sued in connection with performance of RBA duties. Collective bargaining agreements and RBA policies may also apply.

III. CIVIL ACTIONS

A. Pursuant to Minnesota Statutes section 466.07, subdivision 1, RBA shall defend and indemnify any RBA board member or employee for damages in school-related litigation, including punitive damages, claimed or levied against a RBA board member or employee, provided that the RBA 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, RBA 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 RBA and the commissioner and department officers, agents, and employees. RBA 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 RBA may be sought as evidence in a civil proceeding. RBA 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 RBA board member or employee may release data without consultation in advance with the RBA official designated as the responsible authority for the collection, use, and dissemination of data.

D. Service of Subpoenas

RBA 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 RBA personnel policies and applicable collective bargaining agreements.

IV. CRIMINAL CHARGES OR CONDUCT

A. Employees

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

B. Students

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

C. Criminal Investigations

1. The policy of RBA is to cooperate with law enforcement officials. RBA 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, RBA will attempt to maintain confidentiality to avoid embarrassment to students and employees and to avoid disruption of the educational program. RBA 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

RBA 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

RBA 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, RBA board members or employees shall make or release

statements in that situation only in consultation with RBA's 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)