MINNESOTA BOARD OF TEACHING

TO: SUPERINTENDENTS OF SCHOOLS
CLERKS OF SCHOOL BOARDS
CHARTER SCHOOL DIRECTORS
HR & PERSONNEL DIRECTORS

FROM: KAREN BALMER
EXECUTIVE DIRECTOR
MINNESOTA BOARD OF TEACHING

SUBJECT: MANDATORY REPORTING OF ACTIONS RELATING TO LICENSED TEACHERS
MINNESOTA STATUTES SECTION 122A.20

DATE: October 2008

This document contains important statutory requirements for school boards and school districts. Please keep it as a reference. You may also wish to forward it to your district's attorney.

*** * * NEW LAW PASSED IN 2008 * * ***

Minnesota Statutes section 123B.03 requires districts to conduct criminal background checks on all individuals who are offered employment in schools. This includes licensed teachers. The 2008 Minnesota Legislature expanded on that law by adding section 1a. Effective May 2009, school hiring authorities will be required to contact the Board of Teaching to determine if a licensed teacher who is a potential new hire has been the subject of any disciplinary action by the Board of Teaching, for certain types of offenses. It also directs school districts to require the propsective new teacher to provide information on the same topic as part of an employment application.

The Board of Teaching is working to develop and implement an automated system that will enable districts to quickly and easily obtain information about disciplinary action. We will keep you updated about the system and prior to May 2009 we will provide detailed information to all jurisdictions on how to access and use the system.

This statute, as well as all other statutes referenced in this document, can be accessed by visiting the following website:

http://www.revisor.leg.state.mn.us/stats/

This memo is divided into 4 parts:

Part I Mandatory Reporting Overview and Statute

Part II Circumstances under which a school district is required to file a report

1. **When any of its teachers or administrators is suspended or resigns while an investigation is pending.**
2. **When any of its teachers or administrators is discharged or resigns after a charge is filed.**
3. **When any of its teachers or administrators are suspended without an investigation under 122A.41, subdivision 6, paragraph (a), clauses (1), (2), and (3), and subdivision 7 or Minnesota Statute 626.556.**

Part III Immunity from Liability

Part IV Child Abuse, Criminal Sexual Misconduct or Child Pornography

Part I

MANDATORY REPORTING OF ACTIONS RELATING TO LICENSED TEACHERS

Minnesota Statutes require that the appropriate licensing board be notified when certain types of allegations are made against licensed school district employees. For purposes of reporting, these statutes include all district employees who hold or are required to hold licenses issued by either the Board of Teaching or the Board of School Administrators.

This document provides you with the statutes that define the circumstances under which these reports are required from school districts and school boards. It is essential that you familiarize yourself with these statutory provisions.

The underlying law for mandatory reporting is Minnesota Statutes, section 122A.20, subdivision 2:

Subd. 2. **Mandatory reporting.** A school board must report to the Board of Teaching, the Board of School Administrators, or the Board of Trustees of the Minnesota State Colleges and Universities, whichever has jurisdiction over the teacher's or administrator's license, when its teacher or administrator is discharged or resigns from employment after a charge is filed with the school board under section 122A.41, subdivisions 6, clauses (1), (2), and

(3), and 7, or after charges are filed that are grounds for discharge under section 122A.40, subdivision 13, paragraph (a), clauses (1) to (5), or when a teacher or administrator is suspended or resigns while an investigation is pending under section 122A.40, subdivision 13, paragraph (a) clauses (1) to (5); 122A.41, subdivisions 6,clauses (1), (2), and (3), and 7; or 626.556, or when a teacher or administrator is suspended without an investigation under section 122A.41, subdivisions 6, paragraph (a), clauses (1),(2), and (3), and 7; or 626.556. The report must be made to the appropriate licensing board within ten days after the discharge, suspension, or resignation has occurred. The licensing board to which the report is made must investigate the report for violation of subdivision 1 and the reporting board must cooperate in the investigation. Notwithstanding any provision in chapter 13 or any law to the contrary, upon written request from the licensing board having jurisdiction over the license, a board or school superintendent shall provide the licensing board with information about the teacher or administrator from the district's files, any termination or disciplinary proceeding, any settlement or compromise, or any investigative file. Upon written request from the appropriate licensing board, a board or school superintendent may, at the discretion of the board or school superintendent, solicit the written consent of a student and the student's parent to provide the licensing board with information that may aid the licensing board in its investigation and license proceedings. The licensing board's request need not identify a student or parent by name. The consent of the student and the student's parent must meet the requirements of chapter 13 and Code of Federal Regulations, title 34, section 99.30. The licensing board may provide a consent form to the district. Any data transmitted to any board under this section is private data under section 13.02,subdivision 12, notwithstanding any other classification of the data when it was in the possession of any other agency. The licensing board to which a report is made must transmit to the Attorney General's Office any record or data it receives under this subdivision for the sole purpose of having the Attorney General's Office assist that board in its investigation. When the Attorney General's Office has informed an employee of the appropriate licensing board in writing that grounds exist to suspend or revoke a teacher's license to teach, that licensing board must consider suspending or revoking or decline to suspend or revoke the teacher's or administrator's license within 45 days of receiving a stipulation executed by the teacher or administrator under investigation or a recommendation from an administrative law judge that disciplinary action be taken.

Part II

1) A school district must report to the appropriate state licensing board when any of its teachers or administrators *are suspended or resign while an investigation is pending* under these two statutory provisions:

A. Section 122A.40, subdivision 13, paragraph (a), clauses 1 through 5:

Subd. 13. **Immediate discharge.** (a) Except as otherwise provided in paragraph (b), a board may discharge a continuing-contract teacher, effective immediately, upon any of the following grounds:

(1) immoral conduct, insubordination, or conviction of a felony;
(2) conduct unbecoming a teacher which requires the immediate removal of the teacher from classroom or other duties;

(3) failure without justifiable cause to teach without first securing the written release of the school board;
(4) gross inefficiency which the teacher has failed to correct after reasonable written notice;
(5) willful neglect of duty;

B. Section 122A.41, subdivision 6, paragraph (a), clauses 1 through 3, and subdivision 7:

Subd. 6. **Grounds for discharge or demotion.** (a) Except as otherwise provided in paragraph (b), causes for the discharge or demotion of a teacher either during or after the probationary period must be:

(1) Immoral character, conduct unbecoming a teacher, or insubordination;
(2) Failure without justifiable cause to teach without first securing the written release of the school board having the care, management, or control of the school in which the teacher is employed;
(3) Inefficiency in teaching or in the management of a school.

Subd. 7. **Hearing of charges against teacher.** The charges against a teacher must be in writing and signed by the person making the same and then filed with the secretary or clerk of the school board having charge of the school in which the teacher is employed. Before the school board discharges or demotes a teacher, the board must notify the teacher in writing and state in reasonable detail its grounds for the proposed discharge or demotion, together with a statement that the teacher may request in writing within ten days after receiving the notice a hearing before the board. The board may have the notice served personally or may send it by certified mail addressed to the teacher at the teacher's last known post office address. The teacher, under subdivision 13, also may elect a hearing before an arbitrator instead of the school board. Within ten days after receiving the notice the teacher may request in writing a hearing before the board or an arbitrator and it shall be granted. The teacher must be given reasonable notice of the time and place of the hearing before final action is taken. A teacher who fails to request a hearing within ten days is considered to acquiesce in the board's action. If the charge is made by a person not connected with the school system the charge may be disregarded by the school board. If the grounds are those specified in subdivision 6, clause (1), (2), 3), or (4), the notice must also state a teacher may request arbitration under subdivision 13. At the hearing, the school board or arbitrator shall hear all evidence that may be adduced in support of the charges and for the teacher's defense to the charges. Either party has the right to have a written record of the hearing at the expense of the board and to have witnesses subpoenaed and all witnesses so subpoenaed must be examined under oath. Any member of the school board conducting such a hearing has authority to issue subpoenas and to administer oaths to witnesses.

2) A school district must report to the appropriate state licensing board when any of its teachers or administrators *are discharged or resign after a charge is filed* under these two statutory provisions:

C. Section 122A.40, subdivision 13, paragraph (a), clauses 1 through 5. **(See 1A, above)**

D. Section 122A.41, subdivision 6, paragraph (a), clauses 1 through 3, and subdivision 7. (**See 1B, above**)

3) A school district must report to the appropriate state licensing board when any of its teachers or administrators are *suspended without an investigation* under section 122A.41, subdivision 6, paragraph (a), clauses (1), (2), and (3), and subdivision 7 (see B, above) or Minnesota Statutes section 626.556.

Note: In addition to these statutory requirements, a mandatory report must also be filed if a licensee is suspended or resigns while an investigation is pending under Minnesota Statute section 626.556, the Maltreatment of Minors Act.

Part III

School boards must report to the appropriate state licensing board within ten days after the event has occurred and must cooperate with the licensing board in any investigation it may conduct into the status of the teacher's or administrator's license. Minnesota Statutes, section **122A.20, subdivision 3**, provides that school board officials and school district employees who make reports to licensing boards in good faith and with due care are immune from civil or criminal liability:

Subd. 3. **Immunity from liability.** A school board, its members in their official capacity, and employees of the district run by the board are immune from civil or criminal liability for reporting or cooperating as required under subdivision 2, if their actions required under subdivision 2 are done in good faith and with due care.

Part IV

If a licensee is convicted of child abuse, criminal sexual conduct or child pornography as provided in section 122A.20, subd. 1, paragraph (b), which was amended by the Minnesota Legislature in 2007, a school board is required to discharge that individual upon receipt of notice of the license revocation, pursuant to section 122A.41, subd. 6, paragraph (b):

122A.20, subd. 1(b) The Board of Teaching or Board of School Administrators, whichever has jurisdiction over a teacher's licensure, shall refuse to issue, refuse to renew, or automatically revoke a teacher's license to teach without the right to a hearing upon receiving a certified copy of a conviction showing that the teacher has been convicted of child abuse, as defined in section 609.185, ~~or~~ sexual abuse under section 609.342, 609.343, 609.344, 609.345, 609.3451, subdivision 3, or 617.23, subdivision 3, ~~or~~ using minors in a sexual performance under section 617.246, or possessing pornographic works involving a minor under section 617.247, or under a similar law of another state or the United States. The board shall send notice of this licensing action to the district in which the teacher is currently employed.

122A.41, subd. 6(b)) A probationary or continuing-contract teacher must be discharged immediately upon receipt of notice under section 122A.20, subdivision 1, paragraph (b), that the teacher's license has been revoked due to a conviction for child abuse or sexual abuse.

All questions or reports made pursuant to these statutory requirements that pertain to individuals licensed by the Board of Teaching should be directed to:

Karen Balmer, Executive Director
Minnesota Board of Teaching
1500 Highway 36 West
Roseville, MN 55113
(651) 582-8888

Questions or reports made pursuant to these statutory requirements that pertain to administrators licensed by the Board of School Administrators should be directed to:

Judith Lamp, Executive Director
Board of School Administrators
1667 Snelling Avenue North
Falcon Heights MN 55113
(651) 999-7387