

1

Charter School Boards & Staff In-Service

Minnesota Employment Law

MN Statute 181

Module No. 1

# Whistleblower Law

Disclosure of Information by Employers

MN Statute 181 Section 932



Minnesota charter schools are subject to MN Statute 181 - Employment Law. This law is the general employment law in the State of Minnesota that applies to all employers and employees.

One of the fiduciary duties of board members is to know the laws that apply to the school, and the charter school has a legal responsibility to notify employees of the terms and conditions of employment in the public charter school - especially since those terms and conditions are different than employment in traditional public schools.

These In-service Modules provide “bite size” lessons on Minnesota’s Employment Law for use as monthly in-services with public charter school boards and staffs. We hope that charter school boards and administrators will find these in-service modules a helpful tool.

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### WHISTLEBLOWER LAW: DISCLOSURE OF INFORMATION BY EMPLOYEES

*In the 2009 revision of Minnesota’s Charter School Law - MN Statutes 124.D 10 - the legislature not only lists MN Statute 181 as a law with which a charter school and a charter school board must comply, it goes further and specifically emphasizes that boards and schools must comply with MN Statute 181 section 932, which is known as the Whistleblower Law.*

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#### 181.932 – Disclosure of Information by Employees

##### **Prohibited action:**

An employer shall not discharge, discipline, threaten, otherwise discriminate against, or penalize an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment because:

- (1) the employee, or a person acting on behalf of an employee, in good faith, reports a violation or suspected violation of any federal or state law or rule adopted pursuant to law to an employer or to any governmental body or law enforcement official;
- (2) the employee is requested by a public body or office to participate in an investigation, hearing, or inquiry;
- (3) the employee refuses an employer's order to perform an action that the employee has an objective basis in fact to believe violates any state or federal law or rule or regulation adopted pursuant to law, and the employee informs the employer that the order is being refused for that reason;
- (4) the employee, in good faith, reports a situation in which the quality of health care services provided by a health care facility, organization, or health care provider violates a standard established by federal or state law or a professionally recognized national clinical or ethical standard and potentially places the public at risk of harm; or
- (5) a public employee communicates the findings of a scientific or technical study that the employee, in good faith, believes to be truthful and accurate, including reports to a governmental body or law enforcement official.

The disclosures protected pursuant to this section do not authorize the disclosure of data otherwise protected by law.

### **Disclosure of identity:**

The identity of any employee making a report to a governmental body or law enforcement official under subdivision 1, clause (1) or (4), is private data on individuals as defined in section 13.02. The identity of an employee providing information under subdivision 1, clause (2), is private data on individuals if:

- (1) the employee would not have provided the information without an assurance that the employee's identity would remain private, because of a concern that the employer would commit an action prohibited under subdivision 1 or that the employee would be subject to some other form of retaliation; or
- (2) the state agency, statewide system, or political subdivision reasonably believes that the employee would not have provided the data because of that concern.

If the disclosure is necessary for prosecution, the identity of the employee may be disclosed but the employee shall be informed prior to the disclosure.

### **False disclosures:**

This section does not permit an employee to make statements or disclosures knowing that they are false or that they are in reckless disregard of the truth.

### **Collective bargaining rights:**

This section does not diminish or impair the rights of a person under any collective bargaining agreement.

### **Confidential information:**

This section does not permit disclosures that would violate federal or state law or diminish or impair the rights of any person to the continued protection of confidentiality of communications provided by common law.

### QUESTIONS FOR DISCUSSION WITH BOARDS AND SCHOOL STAFF

1. What are the five types of employee actions that are protected under this provision of the law?
2. When is the identity of an employee who makes a report to a governmental body or law enforcement official private?
3. Why is the identity of an employee who discloses information under the provisions of this law protected?
4. When can the identity of an employee who is protected under this law be disclosed?
5. What is an employer prohibited from doing to an employee who discloses information to a governmental body or law enforcement official?
6. What is a false disclosure?
7. Why do you think the 2009 MN legislature specifically stated that the charter school board as well as the charter school must comply with this specific provision of this law?
8. What is the history of employee disclosures to governmental bodies and law enforcement officials in your school? (Remember, no names.) Has your school always complied with this provision of the law? (As an employer, a charter school has always been subject to this law even though it was not specifically listed in MN Statute 124.D 10.)
9. What are your school's procedures for ensuring compliance with the "Whistleblower Law"?

### ACTIONS

- ✓ Board Handbook contains information on MN Statutes 181.932 – "Whistleblower Law."
- ✓ Personnel Handbook of the school has information on the provisions of the "Whistleblower Law."
- ✓ Board has developed procedures to ensure compliance with the law.