



Private School Legal Checkup

New Developments and Recurring Risks

NOTE: This presentation provides a general outline of legal developments and risk-management principles. It is not legal advice for a specific situation.

Sam Nelson
Nelson Law, PLLC
sam@nelsonlawmn.com
651-300-1412



Agenda - Part I: Key Legal Developments

- Minnesota Paid Leave
- Earned Sick and Safe Time
- Disability-accommodation process
- Employees who also volunteer
- Child protection, grooming, and mandated reporting
- Threat reporting and school safety
- Other operational developments
- Religious liberty: *MoChridhe v. Academy of Holy Angels*



Agenda - Part II: Recurring Legal Issues

- Employee discipline and discharge
- Student discipline
- Parent custody issues
- Tuition and other agreements

Part I: Key Legal Developments





Minnesota Paid Leave

- Effective January 1, 2026
- Covers nearly all Minnesota employees
- Provides state-administered partial wage replacement
- Covers qualifying medical and family leave
- Includes job-protection, benefits-continuation, and anti-retaliation requirements
- Coordinate with PTO, ESST, FMLA



Minnesota Paid Leave: Practical Questions

- Do we provide notice of Paid Leave to employees?
- How will Paid Leave coordinate with PTO and other paid benefits?
 - May employees supplement state benefits with PTO?
- How will intermittent leave affect staffing and classrooms?
- When does a leave request also trigger an accommodation analysis?
- Do you also issue FMLA notice (if required)?



ESST: New DLI Rules (July 6, 2026)

- DLI adopted permanent ESST rules, effective July 6, 2026 (5200.1200-1209)
- Rules clarify, not replace, the statute
- Accrual year must be designated and communicated to employees
 - If not designated, the accrual year defaults to the calendar year
 - Changing accrual year or method requires advance written notice
 - Change cannot reduce accrual
 - Change of method cannot start mid-accrual-year
- Rules also address hours worked, increments, and employee use
- Reasonable documentation and misuse are clarified
- Local ESST ordinances still apply alongside the state rules



ESST: Misuse

- Repeatedly using ESST on day before or after day off, vacation, or holiday
- Repeatedly using ESST for less than 30 minutes at the start or end of shift
- Using ESST on a day where previous request to take other paid leave was denied
- Evidence that conflicts with claimed use of ESST



Disability Accommodation: New MHRA Duty

- NEW: S.F. 3210 amends the MHRA, effective August 1, 2026
- Failure to engage in the process can itself be a violation
- It applies even if no reasonable accommodation was available
- Covers employment & education
- Practical steps:
 - Recognize when someone identifies a limitation or need
 - Clarify the request and obtain supporting information
 - Engage in a genuine back-and-forth; consider alternatives
 - Document what was reviewed, discussed, and decided



Employees Who Also Volunteer

- New DOL guidance in Sept. 7, 2026 opinion letter
- Service must be freely offered, without direct or implied coercion
- The employee must have no expectation of compensation
- Volunteer duties must not be the same as or similar to paid duties
- Actual duties and expectations matter more than labels
- Exempt: even if they fail the test, they don't have to be paid extra for "volunteer" time as long as the primary duty remains exempt work



Employee Volunteers: School Examples

- Teacher volunteering as a coach
 - Possibly different services - examine the job description and responsibilities.
 - Is coaching already expected as part of employment?
 - Is this genuinely voluntary?
- Teacher chaperoning a school trip
 - Is supervision a part of the employee's regular duties?
 - Is participation genuinely optional?
 - Could declining affect employment?
- Secretary chaperoning school trip



Child Protection and Grooming

- Aug. 1, 2026 new MN criminal grooming offense – Sec. 609.352
- Already a felony to solicit a child to engage in sexual conduct
- Person must be 18+ to commit offence
 - Expresses to a child (15 or younger) a desire or intent to engage in sexual conduct with the child AND
 - Engages in a deliberate pattern of conduct (two or more instances) designed to develop false trusting relationship for the purpose of manipulating the child to engage in sexual conduct in the future
- Actual sexual conduct need not occur



Child Protection and Grooming

- Additional Information:
- Applies to person in a current *or recent* position of authority
- Applies to a person more than 36 months older than the victim, and the victim is under 18
- Mandated-reporter training is being updated by Aug. 1, 2027
- Suspected grooming should be reported



Threat Reporting and School Safety

- Minnesota funded anonymous threat-reporting systems
- Nonpublic schools are eligible to apply for grants up to \$2.5k
- Public schools mandated to implement
- Non-public considerations:
 - Review the school's pathway for reporting threats
 - Assign responsibility for threat assessment and police coordination
 - Establish a communication plan for parents, employees, and families



Other Operational Developments

- Transportation - 2026 school bus law changes
 - Drivers must stop at least 20 feet from a bus with red lights
 - Upgraded first aid and emergency equipment requirements
- Safe at Home - new protections effective August 1, 2026
 - Discrimination based on participant status is now prohibited
 - Must accept the Safe at Home designated address
 - Must treat participant addresses as confidential



MoChridhe v. Academy of Holy Angels

- Pending at the Minnesota Supreme Court - argued Sept. 1, 2026
- AHA is a Catholic school in the Archdiocese
- MoChridhe was a librarian/media specialist at AHA
- Acknowledged employees must conduct themselves in accordance with the Catholic Church
- Biological male; informed administration of plans to transition gender
- AHA told MoChridhe employment contract would not be renewed
- MoChridhe sued, alleging employment discrimination, primarily under the MHRA



MoChridhe: The Central Question

- Trial and appellate court dismissed the lawsuit – church autonomy doctrine
- Issues implicated:
 - Religious doctrine and employment standards
 - Church autonomy – ministerial exception
 - Minnesota Human Rights Act exemptions
 - Documentation of religious beliefs and expectations



MoChridhe: Practical Lessons

- Clearly define your school's religious identity and mission
- Connect employment expectations to identified religious teachings
- Explain how employees contribute to the religious mission
- State expectations in offer letters, job descriptions, and handbooks
- Apply standards consistently
- Document the religious basis for important employment decisions
- Do not assume every employee qualifies as a minister
- Do not assume every dispute is beyond civil-court review
- Watch for the MN Supreme Court's decision

Part II: Recurring Legal Issues





Employee Discipline

- Relationship
- Performance documentation
- Nonrenewal of teacher or administrator contracts
- Discipline and termination



Employee Discipline & Termination Checklist

- What is the legitimate reason for the decision? Is it documented?
- Can you explain the decision clearly and accurately?
- Was the employee informed of the concern?
- Was the employee given a chance to respond or improve?

- Has the employee recently requested leave or accommodation?
- Has the employee reported misconduct or safety concerns?
- Did the school follow its handbook and employment provisions?
- Have similarly situated employees been treated consistently?



Student Discipline

- Legal Requirements
 - No due process, BUT courts expect:
 - Follow your own policies
 - Fundamentally fair process – informed of issue, given opportunity to respond
 - Standard: more likely than not



Student Discipline

- Process:
- Protect students
 - Separate involved students where appropriate
 - Address medical needs
 - Consider law-enforcement involvement
- Consider scope/authority
- Preserve evidence
 - Messages, photographs, video, electronic records



Student Discipline

- Investigate:
 - Identify witnesses
 - Identify applicable conduct and discipline provisions
 - Interview reporting students and other important witnesses
 - Interview accused student and give opportunity to respond
 - Two administrators present for interviews
 - Collect evidence
 - Document interviews and decisions
 - Contemporaneous, factual, concise
 - Written for outside reader
 - Avoid legal conclusions, overstatements, speculation about motives



Student/Employee Discipline: Other Issues

- External report:
 - Mandatory reporting requirements
 - Criminal conduct or law-enforcement involvement
 - Note: establish a relationship with law enforcement in advance
- Other considerations:
 - Disability accommodation
 - Harassment or discrimination
 - Immediate safety intervention
 - Communications to other students, families, community
- Open-ended investigation



Family Disputes & Parental Rights

- Issues that Arise
 - Father who child doesn't live with is mad about "educational value," demands to see report cards, attend conferences, and review the tuition contract
 - Parents disagree about child pick-up; mom wants to pick up child on Wednesday afternoon, dad says she can't
 - Dad says there's a restraining order against mom, so don't let her talk to kids
 - Parents are having a court hearing, want you to testify as a witness



Family Disputes & Parental Rights

- Know the Rights of the Parents
 - Decree of Dissolution
 - A court document, signed by a judge, says who has legal and physical custody of the child, may include parenting time, etc.
 - Legal Custody
 - The right to determine the child's upbringing, including education, health care, religion, etc.
 - Physical Custody
 - Control over routine daily care of the child, child resides with this parent



Family Disputes & Parental Rights

- Know the Rights of the Parents
 - General school-related rights, regardless of custody
 - Access to school and other important records/information
 - Be informed by other party re: the name and address of the school the child is attending
 - Be informed by the school re: child's welfare, educational progress/status
 - To attend school and parent-teacher conferences



Family Disputes & Parental Rights

- Know the Rights of the Parents
 - General rights, regardless of custody
 - Be notified by the other party of an accident or serious illness of a child, including name of health care provider and place of treatment
 - Be notified by the other party if the child is a victim of an alleged crime, including the name of investigating law enforcement officer/agency
 - Reasonable access and telephone or other electronic contact with child



Family Disputes & Parental Rights

- What does a school have to do?
 - Provide access to school records
 - Inform parents re: child's welfare, educational progress/status
 - Allow to attend conferences (no right to separate conferences)
 - No right to see the tuition contract if not a party to the contract



Family Disputes & Parental Rights

- What can impact parental rights?
 - Order for Protection, Restraining Order, DANCO (Domestic Abuse No Contact Order)
 - Court orders
 - You need to have a copy of the order on file, review it, and determine what is required
 - Likely supersedes parenting time/physical custody rights



Family Disputes & Parental Rights

- In disputes, **stay neutral!**
 - Do not take sides
 - Review court orders and comply with those - consult with legal counsel
 - If you don't have the court order, ask for it
 - Decline to be interviewed, submit affidavits, or "cooperate" with one side
 - Require a subpoena for testimony in court



Family Disputes & Parental Rights

- How to Handle Issues that Arise
 - Father who child doesn't live with is mad about "educational value," demands to see report cards, attend conferences, and review the tuition contract
 - Parents disagree about child pick-up; mom wants to pick up child on Wednesday afternoon, dad says she can't
 - Dad says there's a restraining order against mom, so don't let her talk to kids
 - Parents are having a court hearing, want you to testify as a witness



Enrollment, Tuition, Other Agreements

- Enrollment and withdrawal authority; student dismissal
- Tuition obligations and refunds
- Parent cooperation and conduct
- Religious mission and expectations
- Releases, waivers, indemnification, and insurance



When to Contact Legal Counsel

- Before a significant termination, nonrenewal, or expulsion
- When reporting obligations are uncertain
- When criminal conduct or student safety may be involved
- When a parent or employee threatens litigation or publicity – or you realize that could become an issue
- When religious doctrine and nondiscrimination law intersect
- Before departing from policy or practice
- When the matter involves multiple legal issues
- When the decision is hard to explain in writing



Questions



Sam Nelson
Nelson Law, PLLC
651-300-1412
sam@nelsonlawmn.com
NelsonLawMN.com