

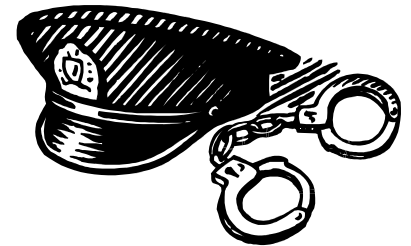


Lincoln Education
Association
4920 Normal Blvd
Lincoln NE 68506
(402) 489-7500
www.lincolneducationassociation.org

Should the Police Come Knocking

by Dan Studer, UniServ Director
dan.studer@nsea.org

Luckily, it doesn't often happen in many educators' careers: becoming involved in a police investigation, **but it can and does happen**. One never knows, for example, when a student might become involved in a legal issue and authorities turn to the student's teacher for assistance. Worse, there can be times when accusations are made against a Lincoln Public Schools employee and police become involved in the matter. Although it is rare, members need to know how to handle dealing with legal authorities should the situation arise.



Members should always be factual and to the point when questioned by police. Do **not** engage in gossip, speculation, or hearsay. Keep your personal opinions to yourself and only relate what you saw, heard, or otherwise know as being factual. There are times when the police will want your *professional* opinion as the child's teacher. That **is** appropriate and quite different from an employee stating their *personal* opinions and biases.

What if the investigation is in regards to accusations being made against you?

- If you are notified ahead of time to make an appointment with the police, immediately contact the LEA office. Staff will be able to give you general advice and begin the process of opening a file for you that will pave the way for NSEA legal services should it become necessary.
- **If there are allegations of criminal misconduct made against you, you will need to immediately get in touch with a criminal attorney.** LEA/NSEA/NEA legal services apply to **job related** situations, only, that have to do with your **employment, contract, and/or teaching certificate, not criminal matters**. The one exception to this is if a member is accused of criminal activity as it relates to corporal punishment as defined by Nebraska state statute.
- A word of caution: it is always important that you confide in your LEA representative as truthfully as possible in regards to what has happened, **but** never confess any guilt to your LEA representative. You and your LEA representative

- do not, by law, enjoy a client-attorney relationship or privilege and, worst case scenario, your LEA representative could be subpoenaed to testify **against you**.
- ✦ It is generally recommended to go ahead and meet with the police investigator(s) rather than give any appearance that you have something to hide.
 - ✦ Do **not** discuss the fact that you are being interviewed by the police with other individuals other than those referenced above. Do **not** discuss or explain what happened to others. Any discussions of this nature can be used against you or misinterpreted.
 - ✦ As noted above, keep your responses concise and factual. Do **not** volunteer additional information.
 - ✦ If you are accused of having done something that you can definitely deny without explanation, go ahead and state, “I did not do that” or “That did not happen.” However, resist the urge to give a lengthy explanation about what you did do. An investigation is not the time or place to launch into a lengthy defense of what you did or did not do. It is also **not** the time to speculate on what caused any misunderstanding or to try to establish a motive for someone making accusations against you.
 - ✦ Remember, the officer is there not just to hear your side of the story, but to build a case and the old adage, “Anything you say can and will be used against you” always is true regardless of what an officer might tell you.
 - ✦ **Lengthy responses and/or explanations can be misinterpreted**, confusing to the investigator, and in the heat of the moment any miscommunication or misstatement that you later try to clarify can not only be used against you, but it may also appear as though you were trying to conceal the truth or mislead the investigator.
 - ✦ Do **not** apologize. By nature most teachers are caring, empathetic individuals and even if they have not done something wrong, the temptation is to express sorrow for what has happened. **Don’t**. An apology can be misconstrued as a confession or an expression of guilt.
 - ✦ **Never lie, but do not incriminate yourself, either**. If you have done something that could be interpreted as a criminal violation, insist upon (criminal) legal representation being present before making any further statement. If you make an admission of any kind, the “game” is over. Before coming to that point, you owe it to yourself to know all of your options from a professional working on your behalf.

Should you become involved in a legal situation in which you will have to defend your actions or behavior in a criminal matter, getting any charges against you dismissed or being found not guilty becomes your **number one priority**, not your job. You cannot teach with a criminal matter hanging over your head.

Your NSEA attorney will represent you with the school district and/or the Nebraska Department of Education should a complaint be filed against you with the Professional

Practices Commission. Your NSEA attorney will also coordinate efforts with your criminal attorney, as needed.

Finally, one of the very real benefits of membership—one we hope you never have to utilize—is your one million dollar (per incident) Educators Employment Liability Insurance. Should you need to hire a criminal attorney to defend yourself against charges and those charges are later dismissed or you are proven to be not guilty, your EEL policy will reimburse up to \$35,000 per criminal proceeding for expenses.

It is both easy and natural for teachers to assume, “This will never happen to me. I am a good teacher!” but in this day and age of what at times appears to be a litigation-happy society, and working in the public eye with children, one should always be aware of their rights and be ready to maneuver through a difficult situation with as much ease as possible.

If you have further questions about your rights as a member and public school employee, contact the LEA office.