

Personnel

Mandated Reporting of Child Neglect or Physical or Sexual Abuse

I. Purpose

This policy provides district employees' statutory requirements to report suspected child neglect or physical or sexual abuse.

II. General Statement of Policy

- A. The school district complies with state laws requiring a district employee to report suspected child neglect or physical or sexual abuse.
- B. A violation of this policy occurs when a district employee fails to immediately report instances of child neglect, or physical or sexual abuse when the employee knows or has reason to believe a child is being neglected or physically or sexually abused or has been neglected or physically or sexually abused within the preceding three years.

III. Definitions

- A. "Accidental" means a sudden, not reasonably foreseeable, and unexpected occurrence or event which:
 - 1. is not likely to occur and could not have been prevented by exercise of due care; and
 - 2. if occurring while a child is receiving services from a facility, happens when the facility and the employee or person providing services in the facility are in compliance with the laws and rules relevant to the occurrence of event.
- B. "Child" means one under age 18 and, for purposes of Minn. Stat. Ch. 260C (Child Protection) and Minn. Stat. Ch. 260D (Child in Voluntary Foster Care for Treatment), includes a person under 21 who is in foster care pursuant to Minn. Stat. § 260C.451 (Foster Care Benefits Past Age 18).
- C. "Immediately" means as soon as possible but in no event longer than 24 hours.
- D. "Mandated reporter" means a district employee who knows or has reason to believe a child is being neglected or physically or sexually abused, or has been neglected or physically or sexually abused within the preceding three years.
- E. "Neglect" means:
 - 1. failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter, health, medical, or other care required for

the child's physical or mental health when reasonably able to do so, including a growth delay, which may be referred to as a failure to thrive, that has been diagnosed by a physician and is due to parental neglect;

2. failure to protect a child from conditions or actions that seriously endanger the child's physical or mental health when reasonably able to do so;
3. failure to provide for necessary supervision or child care arrangements appropriate for a child after considering factors such as the child's age, mental ability, physical condition, length of absence, or environment, when the child is unable to care for his or her own basic needs or safety or the basic needs or safety of another child in his or her care;
4. failure to ensure that a child is educated in accordance with state law, which does not include a parent's refusal to provide his or her child with sympathomimetic medications;
5. prenatal exposure to a controlled substance used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child's birth, or medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance or the presence of a fetal alcohol spectrum disorder;
6. medical neglect as defined by Minn. Stat. § 260C.007, Subd. 4, Clause (5);
7. chronic and severe use of alcohol or a controlled substance by a parent or person responsible for the care of the child that adversely affects the child's basic needs and safety; or
8. emotional harm from a pattern of behavior which contributes to impaired emotional functioning of the child that may be demonstrated by a substantial and observable effect in the child's behavior, emotional response, or cognition that is not within the normal range for the child's age and stage of development, with due regard to the child's culture.

Neglect does not include spiritual means or prayer for treatment or care of disease where the person responsible for the child's care in good faith has selected and depended on those means for treatment or care of disease, except where the lack of medical care may cause serious danger to the child's health.

F. "Non-maltreatment mistake" means:

1. at the time of the incident, the person was performing duties identified in the center's childcare program plan required under Minn. Rules Part 9503.0045;
2. the person has not been determined responsible for a similar incident that resulted in a finding of maltreatment for at least seven years;
3. the person has not been determined to have committed a similar non-

maltreatment mistake under this paragraph for at least four years;

4. any injury to a child resulting from the incident, when if treated, is treated only with remedies that are available over the counter, whether ordered by a medical professional or not; and
5. except for the period when the incident occurred, the facility and the person providing services were both in compliance with all licensing requirements relevant to the incident.

This definition applies only to childcare centers licensed under Minn. Rules Ch. 9503.

- G. "Physical abuse" means a physical injury, mental injury, or threatened injury, inflicted by a person responsible for the child's care other than by accidental means; or a physical or mental injury that cannot reasonably be explained by the child's history of injuries or aversive or deprivation procedures, or regulated interventions, that have not been authorized by Minn. Stat. §121A.67 or §245.825.

Abuse does not include reasonable and moderate physical discipline of a child administered by a parent or legal guardian that does not result in an injury. Abuse does not include the use of reasonable force by a teacher, principal, or district employee as allowed by Minn. Stat. § 121A.582.

Actions which are not reasonable and moderate include, but are not limited to, any of the following: (1) throwing, kicking, burning, biting, or cutting a child; (2) striking a child with a closed fist; (3) shaking a child under age three; (4) striking or other actions which result in any nonaccidental injury to a child under 18 months of age; (5) unreasonable interference with a child's breathing; (6) threatening a child with a weapon, as defined in Minn. Stat. § 609.02, Subd. 6; (7) striking a child under age one on the face or head; (8) striking a child who is at least age one but under age four on the face or head, which results in an injury; (9) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled substances which were not prescribed for the child by a practitioner, in order to control or punish the child, or giving the child other substances that substantially affect the child's behavior, motor coordination, or judgment or that result in sickness or internal injury, or subject the child to medical procedures that would be unnecessary if the child were not exposed to the substances; (10) unreasonable physical confinement or restraint not permitted under Minn. Stat. § 609.379 including, but not limited to, tying, caging, or chaining; or (11) in a school facility or school zone, an act by a person responsible for the child's care that is a violation under Minn. Stat. § 121A.58.

- H. "Report" means any communication received by the local welfare agency, police department, county sheriff, or agency responsible for child protection pursuant to this section that describes neglect or physical or sexual abuse of a child and contains sufficient content to identify the child and any person believed to be responsible for the neglect or abuse, if known.

- I. "District employee" means a professional employee or his or her delegate who

provides health, educational, social, psychological, law enforcement or childcare services.

- J. "Sexual abuse" means the subjection of a child by a person responsible for the child's care, by a person who has a significant relationship to the child (as defined in Minn. Stat. § 609.341, Subd. 15), or by a person in a position of authority (as defined in Minn. Stat. § 609.341, Subd. 10) to any act which constitutes a violation of Minnesota statutes prohibiting criminal sexual conduct. Such acts include sexual penetration as well as sexual contact. Sexual abuse also includes any act involving a minor which constitutes a violation of Minnesota statutes prohibiting prostitution, or use of a minor in a sexual performance. Sexual abuse includes all reports of known or suspected child sex trafficking involving a child who is identified as a victim of sex trafficking. Sexual abuse includes threatened sexual abuse which includes the status of a parent or household member who has committed a violation which requires registration under Minn. Stat. §243.166, Subd. 1b(a) or (b) (Registration of Predatory Offenders).
- K. "Mental injury" means an injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in the child's ability to function within a normal range of performance and behavior with due regard to the child's culture.
- L. "Person responsible for the child's care" means (1) a person functioning within the family unit and having responsibilities for the care of the child such as a parent, guardian, or other person having similar care responsibilities, or (2) a person functioning outside the family unit and having responsibilities for the care of the child such as a teacher, school administrator, other district employees or agents, or other lawful custodian of a child having either full-time or short-term care responsibilities including, but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching, and coaching.
- M. "Threatened injury" means a statement, overt act, condition, or status that represents a substantial risk of physical or sexual abuse or mental injury. Threatened injury includes, but is not limited to, exposing a child to a person responsible for the child's care who has subjected the child to, or failed to protect a child from, egregious harm, or a person whose parental rights were involuntarily terminated, been found palpably unfit, or one from whom legal and physical custody of a child has been involuntarily transferred to another.

IV. Reporting Procedures

- A. A mandated reporter, as defined by this policy, will immediately report the neglect or physical or sexual abuse, which he or she knows or has reason to believe is happening or has happened within the preceding three years to the local welfare agency, police department, county sheriff, or agency responsible for assisting or investigating maltreatment.
- B. If the immediate report has been made orally, by telephone or otherwise, the oral report must be followed by a written report within 72 hours (exclusive of weekends and holidays) to the appropriate police department, the county sheriff, local

welfare agency, or agency responsible for assisting or investigating maltreatment. The written report must identify the child, a person believed to be responsible for the abuse or neglect of the child if the person is known, the nature and extent of the abuse or neglect, and the name and address of the reporter.

- C. Regardless of whether a report is made, as soon as practicable after a school receives information regarding an incident that may constitute maltreatment of a child in a school facility, the school will inform the parent, legal guardian, or custodian of the child that an incident has occurred and may constitute maltreatment of the child, when the incident occurred, and the nature of the conduct that may constitute maltreatment.
- D. A mandated reporter who knows or has reason to know of the deprivation of parental rights or the kidnapping of a child must report the information to the local police department or the county sheriff.
- E. With the exception of a healthcare professional or a social service professional who is providing the woman with prenatal care or other healthcare services, a mandated reporter will immediately report to the local welfare agency if the person knows or has reason to believe that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy, including, but not limited to, tetrahydrocannabinol, or has consumed alcoholic beverages during pregnancy in any way that is habitual or excessive.
- F. A person mandated by state law and this policy to report who fails to report may be subject to criminal penalties and/or discipline, up to and including termination of employment.
- G. Submission of a good faith report under state law and this policy will not adversely affect the reporter's employment, or the child's access to school.
- H. A person who knowingly or recklessly makes a false report under the provisions of applicable state law or this policy will be liable in a civil suit for actual damages suffered by the person or persons so reported and for punitive damages set by the court or jury, and the reckless making of a false report may result in discipline. The court may also award attorney's fees.

V. Investigation

- A. The responsibility for investigating reports of suspected neglect or physical or sexual abuse rests with the appropriate county, state, or local agency or agencies. The agency responsible for assessing or investigating reports of child maltreatment has the authority to interview the child, the person or persons responsible for the child's care, the alleged perpetrator, and any other person with knowledge of the abuse or neglect for the purpose of gathering the facts, assessing safety and risk to the child, and formulating a plan. The investigating agency may interview the child at school. The interview may take place outside the presence of a district employee. The investigating agency, not the school, is responsible for either notifying or withholding notification of the interview to the

parent, guardian or person responsible for the child's care. A district employee may not disclose to the parent, legal custodian, or guardian the contents of the notification or other related information regarding the interview until notified in writing by the local welfare or law enforcement agency that the investigation or assessment has been concluded.

- B. When the investigating agency determines that an interview should take place on school property, written notification of intent to interview the child on school property must be received by a district administrator or designee prior to the interview. The notification must include the name of the child to be interviewed, the purpose of the interview, and a reference to the statutory authority to conduct an interview on district property.
- C. Except where the alleged perpetrator is believed to be a district employee, the time and place, and manner of the interview on district property is within the discretion of a district administrator or designee, but the local welfare or law enforcement agency has the exclusive authority to determine who may attend the interview. The conditions as to time, place, and manner of the interview set by the district administrator or designee must be reasonable and the interview must be conducted not more than 24 hours after the receipt of the notification unless another time is considered necessary by agreement between the district administrator or designee and the local welfare or law enforcement agency. Every effort must be made to reduce the disruption of the educational program of the child, other students, or district employees when an interview is conducted on district property.
- D. Where the alleged perpetrator is believed to be a district employee, the school district will conduct its own investigation independent of the state education agency and, if involved, the local welfare or law enforcement agency.
- E. Upon request by the state education agency, the district must provide all requested data that are relevant to a report of maltreatment and are in the possession of a school facility, pursuant to an assessment or investigation of a maltreatment report of a student in school. The district must provide the requested data in accordance with the requirements of state and federal law.

VI. Maintenance of School Records Concerning Abuse or Potential Abuse

- A. When a local welfare or local law enforcement agency determines that a potentially abused or abused child should be interviewed on district property, written notification of the agency's intent to interview on district property must be received by the district administrator or designee prior to the interview. The notification must include the name of the child to be interviewed, the purpose of the interview, and a reference to the statutory authority to conduct the interview. The notification is private data. District employees may not disclose to the parent, legal custodian, or guardian the contents of the notice or any other related information regarding the interview until notified in writing by the local welfare or law enforcement agency that the investigation has been concluded.

- B. All records regarding a report of maltreatment, including any notification of intent to interview that was received by the district as described above in paragraph A., will be destroyed by the district only when ordered by the agency conducting the investigation or by a court of competent jurisdiction.

VII. Physical or Sexual Abuse as Sexual Harassment or Violence

Under certain circumstances, alleged physical or sexual abuse may also be sexual harassment or violence under state law. If so, the duties relating to the reporting and investigation of such harassment or violence may be applicable.

VIII. Dissemination of Policy and Training

- A. This policy is included in district employee handbooks.
- B. The school district will discuss this policy with district employees.
- C. This policy is reviewed annually for compliance with state law.

Legal References:

Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)
Minn. Stat. § 121A.58 (Corporal Punishment)
Minn. Stat. § 121A.582 (Student Discipline; Reasonable Force)
Minn. Stat. § 125A.0942 (Standards for Restrictive Procedures)
Minn. Stat. § 243.166, Subd. 1b(a)(b) (Registration of Predatory Offenders)
Minn. Stat. § 245.825 (Use of Aversive or Deprivation Procedures)
Minn. Stat. § 260C.007, Subd. 4, Clause (5) (Child in Need of Protection)
Minn. Stat. § 260C.451 (Foster Care Benefits Past Age 18)
Minn. Stat. Ch. 260D (Child in Voluntary Foster Care for Treatment)
Minn. Stat. § 609.02, Subd. 6 (Definitions – Dangerous Weapon)
Minn. Stat. § 609.341, Subd. 10 (Definitions – Position of Authority)
Minn. Stat. § 609.341, Subd. 15 (Definitions – Significant Relationship)
Minn. Stat. § 609.379 (Reasonable Force)
Minn. Stat. § 626.556 *et seq.* (Reporting of Maltreatment of Minors)
Minn. Stat. § 626.5561 (Reporting of Prenatal Exposure to Controlled Substances)
20 U.S.C. § 1232g (Family Educational Rights and Privacy Act)

Cross Reference:

Policy 415 (Mandated Reporting of Maltreatment of Vulnerable Adults)

Policy

adopted: 10/20/08
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Revised: 07/15/13
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Reviewed: 8/13/18
Reviewed: 8/12/19

INDEPENDENT SCHOOL DISTRICT 273
Edina, Minnesota

Appendix I to Policy 414
**Confidential Student Maltreatment
Reporting Form**

Date submitted: _____

MDE File # _____ (MDE staff use only)

REPORTER (name of person completing form) Reporter is confidential under Minnesota Statutes, section 626.556. Name: _____

Title: _____ Phone: _____ Mandated Reporter: Yes No

Address: _____ City: _____ State: _____ Zip: _____

SCHOOL INFORMATION

ISD# _____ School District _____ Program Name: _____

School Name: _____ Address: _____ City: _____ Zip: _____

Principal/Director: _____ Phone: _____ (Ext): _____

Transportation Company (if necessary) Contact: _____ Phone: _____

ALLEGED VICTIM (Complete one reporting form for each alleged victim)

Name: _____ Address: _____ City: _____ State: _____ Zip: _____

Parent/Guardian: _____ Phone: _____ Alternate Phone: _____

Gender: Male Female ___ DOB: _____ Grade: _____ Ethnicity: _____

Special Education: Yes No Disability Description: _____ State Student ID: _____

ALLEGED OFFENDER

Name: _____ Position: _____ DOB: _____ Gender: Male ___ Female

Address: _____ City: _____ State: _____ Zip: _____

Ethnicity: _____ Phone: _____ Alternate Phone: _____

Licensed: Yes ___ No ___ If Licensed, name of licensing board: _____ Folder #

INCIDENT

Date: _____ Time: _____ Location (i.e. - bus, classroom): _____

Address (if different than school): _____ County: _____

Witness _____ Contact _____ Information: _____

Police Notified: Yes _____ No _____ Police Department: _____

Police Contact: _____ Phone: _____ Case No.: _____

Alleged Maltreatment Physical Abuse ___ Sexual Abuse ___ Neglect ___ Unknown ___ **Injury** Yes ___ No ___ Unknown ___

Description of Incident and Injury: (please attach additional page if needed).