

Personnel

Mandated Reporting of Maltreatment of Vulnerable Adults

I. Purpose

This policy makes clear the district employees' statutory requirements to report suspected maltreatment of vulnerable adults.

II. General State of Policy

- A. The school district fully complies with Minn. Stat. § 626.557 requiring a district employee to report suspected maltreatment of vulnerable adults.
- B. A district employee violates this policy if he or she fails to report suspected maltreatment of vulnerable adults when the employee has reason to believe that a vulnerable adult is being or has been maltreated, or has knowledge that a vulnerable adult has sustained a physical injury that is not reasonably explained.

III. Definitions

- A. "Mandated reporter" means a district employee who has reason to believe that a vulnerable adult is being or has been maltreated.
- B. "Maltreatment" means the neglect, abuse, or financial exploitation of a vulnerable adult.
- C. "Neglect" means the failure or omission by a caregiver to supply a vulnerable adult with care or services, including but not limited to, food, clothing, shelter, health care, or supervision which is: (1) reasonable and necessary to obtain or maintain the vulnerable adult's physical or mental health or safety, considering the physical and mental capacity or dysfunction of the vulnerable adult; and (2) which is not the result of an accident or therapeutic conduct. Neglect also includes the absence or likelihood of absence of care or services, including but not limited to, food, clothing, shelter, health care, or supervision necessary to maintain the physical and mental health of the vulnerable adult which a reasonable person would deem essential to obtain or maintain the vulnerable adult's health, safety, or comfort considering the physical or mental capacity or dysfunction of the vulnerable adult. Neglect does not include actions specifically excluded by Minn. Stat. § 626.5572, Subd. 17.
- D. "Abuse" means: (a) An act against a vulnerable adult that constitutes a violation of, an attempt to violate, or aiding and abetting a violation of: (1) assault in the first through fifth degrees as defined in sections 609.221 to 609.224; (2) the use of drugs to injure or facilitate crime as defined in section 609.235; (3) the solicitation, inducement, and promotion of prostitution as defined in section 609.322; and (4) criminal sexual conduct in the first through fifth degrees as defined in sections

609.342 to 609.3451. A violation includes an action that meets the elements of the crime, regardless of whether there is a criminal proceeding or conviction. (b) Conduct which is not an accident or therapeutic conduct as defined in this section, which produces or could reasonably be expected to produce physical pain or injury or emotional distress including, but not limited to, the following: (1) hitting, slapping, kicking, pinching, biting, or corporal punishment of a vulnerable adult; (2) use of repeated or malicious oral, written, or gestured language toward a vulnerable adult or the treatment of a vulnerable adult which would be considered by a reasonable person to be disparaging, derogatory, humiliating, harassing, or threatening; (3) use of any aversive or deprivation procedure, unreasonable confinement, or involuntary seclusion, including the forced separation of the vulnerable adult from other persons against the will of the vulnerable adult or the legal representative of the vulnerable adult; and (4) use of an aversive or deprivation procedures for persons with developmental disabilities or related conditions not authorized under section 245.825. (c) Sexual contact or penetration as defined in section 609.341, between a facility staff person or a person providing services in the facility and a resident, patient, or client of that facility. (d) The act of forcing, compelling, coercing, or enticing a vulnerable adult against the vulnerable adult's will to perform services for the advantage of another. Abuse does not include actions specifically excluded by Minn. Stat § 626.5572, Subd. 2.

- E. "Financial exploitation" means a breach of a fiduciary duty by an actor's unauthorized expenditure of funds entrusted to the actor for the benefit of the vulnerable adult or by an actor's failure to provide food, clothing, shelter, health care, therapeutic conduct or supervision, the failure of which results or is likely to result in detriment to the vulnerable adult. Financial exploitation also includes: the willful use, withholding or disposal of funds or property of a vulnerable adult; the obtaining of services for wrongful profit or advantage which results in detriment to the vulnerable adult; the acquisition of a vulnerable adult's funds or property through undue influence, harassment, duress, deception or fraud; and the use of force, coercion or enticement to cause a vulnerable adult to perform services against the vulnerable adult's will for the profit or advantage of another.
- F. "Vulnerable Adult" means any person 18 years of age or older who: (1) is a resident or inpatient of a facility; (2) receives services required to be licensed under Minn. Stat. Ch. 245A, except as excluded under Minn. Stat. § 626.5572, Subd. 21(a)(2); (3) receives services from a licensed home care provider or person or organization that offers, provides, or arranges for personal care assistance services under the medical assistance program; or (4) regardless of residence or type of service received possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction that impairs the individual's ability to adequately provide the person's own care without assistance or supervision and, because of the dysfunction or infirmity and need for care or services, has an impaired ability to protect the individual's self from maltreatment.
- G. "Caregiver" means a person or facility who has responsibility for the care of a vulnerable adult as a result of a family relationship, or who has assumed responsibility for all or a portion of the care of a vulnerable adult voluntarily, by

contract, or by agreement.

- H. "District employee" means a professional employee or his or her delegate engaged in providing health, educational, social, psychological, law enforcement, or other caretaking services of vulnerable adults.
- I. "Immediately" means as soon as possible, but no longer than 24 hours from the time initial knowledge that the incident occurred has been received.

IV. Reporting Procedures

- A. A mandated reporter as defined herein must immediately report suspected maltreatment to the common entry point responsible for receiving reports, which is the Minnesota Adult Abuse Reporting Center (MAARC) at 1-844-880-1574 (this is a toll free number available for the public).
- B. Whenever a mandated reporter, as defined herein, knows or has reason to believe that a person made an error in the provision of therapeutic conduct to a vulnerable adult that results in injury or harm, which reasonably requires the care of a physician, such information must be reported immediately to the designated county agency. The mandated reporter also may report a belief that the error did not constitute neglect and why the error does not constitute neglect.
- C. The reporter will to the extent possible identify the vulnerable adult, the caregiver, the nature and extent of the suspected maltreatment, evidence of previous maltreatment, the name and address of the reporter, the time, date, and location of the incident and any other information that the reporter believes might be helpful in investigating the suspected abuse or neglect. A mandated reporter may disclose not public data as defined under Minn. Stat. § 13.02 to the extent necessary to comply with the above reporting requirements.
- D. A person mandated to report suspected maltreatment of a vulnerable adult who negligently or intentionally fails to report is liable for damages caused by the failure. A negligent or intentional failure to report may result in discipline. A mandatory reporter who intentionally fails to make a report, who knowingly provides false or misleading information in reporting or who intentionally fails to provide all the material circumstances surrounding the reported incident may be guilty of a misdemeanor.
- E. Retaliation against a person who makes a good faith report under Minnesota law, this policy or against a vulnerable adult who is named in a report is prohibited.
- F. A person who intentionally makes a false report under the provisions of applicable Minnesota 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. The intentional making of a false report may result in discipline.

V. Investigation

The responsibility for investigating reports of suspected maltreatment of a vulnerable adult rests with the entity designated by the county for receiving reports.

VI. Dissemination of Policy and Training

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

Legal References:

Minn. Stat. § 13.02 (Collection, Security, and Dissemination of Records; Definitions)

Minn. Stat. § 245.825 (Aversive and Deprivation Procedures; Licensed Facilities and Services)

Minn. Stat. §§ 609.221-609.224 (Assault)

Minn. Stat. § 609.234 (Crimes Against the Person)

Minn. Stat. § 609.235 (Use of Drugs to Injure or Facilitate Crime)

Minn. Stat. § 609.322 (Solicitation, Inducement, and Promotion of Prostitution; Sex Trafficking)

Minn. Stat. § 609.341 (Definitions)

Minn. Stat. §§ 609.342-609.3451 (Criminal Sexual Conduct)

Minn. Stat. § 626.557 (Reporting of Maltreatment of Vulnerable Adults)

Minn. Stat. § 626.5572 (Definitions)

In re Kleven, 736 N.W.2d 707 (Minn. App. 2007)

Cross References:

Policy 103 (Complaints – Students, Employees, Parents, Other Persons)

Policy 211 (Criminal or Civil Action Against School District, School Board Member, Employee or Student)

Policy 403 (Discipline, Suspension and Dismissal of School District Employees)

Policy 406 (Public and Private Personnel Data)

Policy 414 (Mandated Reporting of Child Neglect or Physical or Sexual Abuse)

Policy

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INDEPENDENT SCHOOL DISTRICT 273

Edina, Minnesota