




## Memorandum

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September 9, 2011

TO: Mr. John Beckstrom  
Mr. Bill Bresin  
Mr. Neal Fox  
Mr. Joe Grafft  
Ms. Julie Greiman  
Mr. Eric Jordahl  
Dr. Ben Lewis  
Ms. Kathy McMorrow  
Ms. Karen Morehead  
Ms. Deborah Wall  
Sr. High Student to Be Named  
Sr. High Student to Be Named

FROM: Donna M. Friedmann   
Director of Administration & Human Resources

SUBJ: POLICY COMMITTEE MEETING

The next meeting of the Policy Committee will be held promptly at 8:00 p.m. on Thursday, September 15, 2011, in the Board Room at the District Office. The agenda for this meeting is enclosed. Please contact me at 651/982-8123 if you are unable to attend this meeting.

DF/kk

cc: Linda Madsen, Superintendent  
Kathy Bystrom, School Board  
Dan Kieger, School Board  
Rob Rapheal, School Board  
Erin Turner, School Board  
Press (3)

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*Inspire the learner; ignite the potential!*

*Forest Lake Area Schools • Independent School District 831 • Equal Opportunity Employer*

INDEPENDENT SCHOOL DISTRICT NO. 831  
Forest Lake, Minnesota 55025

*Policy Committee Meeting*  
*September 15, 2011 – 8:00 p.m. – District Office Board Room*

**AGENDA**

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| <ol style="list-style-type: none"><li>1. Family &amp; Medical Leave Policy 428 (Annual Review)</li><li>2. Mandated Reporting of Maltreatment of Vulnerable Adults Policy 414 (Annual Review)</li><li>3. Mandated Reporting of Child Neglect or Physical or Sexual Abuse Policy 522 (Annual Review)</li></ol> |
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4. Wellness Policy 546 – Pending
  5. Transportation Employee Drug and Alcohol Policy 430 – Requested by Transp Supv – Pending
  6. Use of Peace Officers and Crisis Teams to Remove Students with IEPs from School Grounds Policy 544  
- Per Deb Wall – Pending
  7. Consideration of Other Policies to be Scheduled for Review
  8. Other Matters
  9. Annual Policy Reviews
    - Technology Acceptable Use and Safety Policy 540 (November 2011)
    - Student Sex Nondiscrimination Policy 421 (November 2011)
    - Student Transportation Safety Policy 531 (November 2011)
    - Anti-Bullying Policy 541 (December 2011)
    - School Board Member Reimbursement Guidelines Policy 103A (December 2011)
    - Out-of-State Travel by School Board Members Policy 103B (December 2011)
    - Crisis Management Policy 538 (February 2012)
    - Discipline Policy 515 (April 2012)
    - Harassment and Violence Policy 425 (April 2012)
    - Wellness Policy 546 (May 2012)
    - Family & Medical Leave Policy 428 (September 2012)
    - Mandated Reporting of Maltreatment of Vulnerable Adults Policy 414 (September 2012)
    - Mandated Reporting of Child Neglect or Physical or Sexual Abuse Policy 522 (September 2012)
  10. Future Policy Review
    - Naming of School Buildings or Portions Thereof Such as Naming a Gymnasium
    - Random Drug Testing
  11. Policies at School Board for Action

*[Note: School districts are required by statute to have a policy addressing these issues.]*

## I. PURPOSE

The purpose of this policy is to provide for family and medical leave to school district employees in accordance with the Family and Medical Leave Act of 1993 (FMLA) and also with parenting leave under state law.

## II. GENERAL STATEMENT OF POLICY

The following procedures and policies regarding family and medical leave are adopted by the school district, pursuant to the requirements of the Family and Medical Leave Act of 1993 (FMLA) and consistent with the requirements of the Minnesota Parenting Leave laws.

## III. DEFINITIONS

A. ~~“Active duty” or “call to active duty” means a federal call to active duty as a member of the reserve components (Army National Guard, Army Reserve, Navy Reserve, Marine Corps Reserve, Air National Guard, Air Force Reserve, and Coast Guard Reserve) or a retired member of the regular Armed Forces or reserve component in support of a contingency operation. For purposes of this policy, active duty or call to active duty status does not include members of the regular Armed Forces.~~ **“Covered active duty” means:**

1. **in the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; and**
2. **in the case of a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty under a provision of law referred to in 10 U.S.C. § 101(a)(13)(B).**

B. ~~“Contingency operation” means a military operation that is designated by the Secretary of Defense as an operation in which members of the Armed Forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force or which results in the call or order to, or retention on, active duty of members of the uniformed services under federal law or any other provision of law during a war or during a national emergency declared by the President or Congress.~~

C. ~~“Covered military member” means the employee’s spouse, son, daughter, or parent on active duty or call to active duty status.~~

DB. **“Covered servicemember” means:**

1. ~~a current~~ member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; ~~or incurred in the line of duty while on active duty that may render the servicemember medically unfit to perform the duties of his or her office, grade, rank, or rating.~~
2. **a veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.**

~~EC.~~ “Eligible employee” means an employee who has been employed by the school district for a total of at least 12 months and who has been employed for at least 1,250 hours of service during the 12-month period immediately preceding the commencement of the leave. While the 12 months of employment need not be consecutive, employment periods prior to a break in service of seven years or more may not be counted unless the break is occasioned by the employee’s fulfillment of his or her National Guard or Reserve military service obligation or a written agreement, including a collective bargaining agreement, exists concerning the school district’s intention to rehire the employee after the break in service.

~~FD.~~ “Next of kin of a covered servicemember” means the nearest blood relative other than the covered servicemember’s spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the covered servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA. When no such designation is made and there are multiple family members with the same level of relationship to the covered servicemember, all such family members shall be considered the covered servicemember’s next of kin, and the employee may take FMLA leave to provide care to the covered servicemember, either consecutively or simultaneously. When such designation has been made, the designated individual shall be deemed to be the covered servicemember’s only next of kin.

**E. “Outpatient status” means, with respect to a covered servicemember, the status of a member of the Armed Forces assigned to:**

1. **a military medical treatment facility as an outpatient; or**
2. **a unit established for the purpose of providing command and control of members of the Armed Forces receiving care as outpatients.**

**GF.** “Qualifying exigency” means a situation where the eligible employee seeks leave for one or more of the following reasons:

1. to address any issues that arise from a short-notice deployment (seven calendar days or less) of a covered military member;
2. to attend military events and related activities of a covered military member;
3. to address issues related to childcare and school activities of a covered military member’s child;
4. to address financial and legal arrangements for a covered military member;
5. to attend counseling provided by someone other than a health care provider for oneself, a covered military member, or his/her child;
6. to spend up to five days with a covered military member who is on short-term, temporary rest and recuperation leave during a period of deployment;
7. to attend post-deployment activities related to a covered military member; and
8. to address other events related to a covered military member that both the employee and school district agree is a qualifying exigency.

**G.** “**Serious health condition**” means an illness, injury, impairment, or physical or mental condition that involves:

1. **inpatient care in a hospital, hospice, or residential medical care facility, or**
2. **continuing treatment by a health care provider.**

**H.** “**Veteran**” has the meaning given in 38 U.S.C. § 101.

#### **IV. LEAVE ENTITLEMENT**

##### **A. Twelve-week Leave**

1. Eligible employees are entitled to a total of 12 work weeks of unpaid family or medical leave during the applicable 12-month period as defined below, plus any additional leave as required by law. Leave may be taken for one or more of the following reasons in accordance with applicable law:

- a. birth of the employee's child and to care for such child;
  - b. placement of an adopted or foster child with the employee;
  - c. to care for the employee's spouse, son, daughter, or parent with a serious health condition;
  - d. the employee's serious health condition makes the employee unable to perform the functions of the employee's job; and/or
  - e. any qualifying exigency arising from the employee's spouse, son, daughter, or parent being on **covered** active duty, or notified of an impending call or order to **covered** active duty **in the Armed Forces, in the reserve component of the Armed Forces or a retired member of the regular Armed Forces or reserve component in support of a contingency operation.**
2. ~~For the purposes of this policy, "year" is defined as a fiscal year (July 1—June 30).~~ **Effective \_\_\_\_\_ and for the purposes of this policy, "year" is defined as a rolling 12-month period measured backward from the date an employee's leave is to commence.**
3. An employee's entitlement to FMLA leave for the birth, adoption, or foster care of a child expires at the end of the 12-month period beginning on the date of the birth or placement.
4. A "serious health condition" typically requires either inpatient care or continuing treatment by or under the supervision of a health care provider, as defined by applicable law. Family and medical leave generally is not intended to cover short-term conditions for which treatment and recovery are very brief.
5. **A "serious injury or illness," in the case of a member of the Armed Forces, including a member of the National Guard or Reserves, means:**
- a. **injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or that existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating; and**
  - b. **a "serious injury or illness," in the case of a veteran who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time, during the period of five years preceding the date on which the veteran undergoes**

**the medical treatment, recuperation, or therapy, means a qualifying injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or that existed before the beginning of the member's active duty and was aggravated by service in the line of duty in the Armed Forces) and that manifested itself before or after the member became a veteran.**

56. Eligible spouses employed by the school district are limited to an aggregate of 12 weeks of leave during any 12-month period for the birth and/or care of a newborn child or adoption of a child, the placement of a child for foster care, or to care for a parent. This limitation for spouses employed by the school district does not apply to leave taken: by one spouse to care for the other spouse who is seriously ill; to care for a child with a serious health condition; because of the employee's own serious health condition; or pursuant to Paragraph IV.A.1.e. above.
67. Depending on the type of leave, intermittent or reduced schedule leave may be granted in the discretion of the school district or when medically necessary. However, part-time employees are only eligible for a pro-rata portion of leave to be used on an intermittent or reduced schedule basis, based on their average hours worked per week. Where an intermittent or reduced schedule leave is foreseeable based on planned medical treatment, the school district may transfer the employee temporarily to an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave than does the employee's regular position, and which has equivalent pay and benefits.
78. If an employee requests a leave for the serious health condition of the employee or the employee's spouse, child, or parent, the employee will be required to submit sufficient medical certification. In such a case, the employee must submit the medical certification within 15 days from the date of the request or as soon as practicable under the circumstances.
89. If the school district has reason to doubt the validity of a health care provider's certification, it may require a second opinion at the school district's expense. If the opinions of the first and second health care providers differ, the school district may require certification from a third health care provider at the school district's expense. An employee may also be required to present a certification from a health care provider indicating that the employee is able to return to work.
910. Requests for leave shall be made to the school district. When leave relates to an employee's spouse, son, daughter, or parent, or **covered servicemember** being on **covered** active duty, or notified of an impending call or order to **covered** active duty pursuant to Paragraph IV.A.1.e. above, and such leave is foreseeable, the employee shall provide reasonable and practical notice to the school district of the need for leave.

For all other leaves, employees must give 30 days' written notice of a leave of absence where practicable. The failure to provide the required notice may result in a delay of the requested leave. Employees are expected to make a reasonable effort to schedule leaves resulting from planned medical treatment so as not to disrupt unduly the operations of the school district, subject to and in coordination with the health care provider.

1011. The school district may require that a request for leave under Paragraph IV.A.1.e. above be supported by a copy of the covered military member's active duty orders or other documentation issued by the military indicating active duty or a call to active duty status ~~in support of a contingency operation~~ and the dates of active duty service. In addition, the school district may require the employee to provide sufficient certification supporting the qualifying exigency for which leave is requested.
112. During the period of a leave permitted under this policy, the school district will provide health insurance under its group health plan under the same conditions coverage would have been provided had the employee not taken the leave. The employee will be responsible for payment of the employee contribution to continue group health insurance coverage during the leave. An employee's failure to make necessary and timely contributions may result in termination of coverage. An employee who does not return to work after the leave may, ~~in some situations,~~ be required, **in some situations,** to reimburse the school district for the cost of the health plan premiums paid by it.
1213. The school district may request or require the employee to substitute accrued paid leave for any part of the 12-week period. Employees may be allowed to substitute paid leave for unpaid leave by meeting the requirements set out in the administrative directives and guidelines established for the implementation of this policy, if any. Employees eligible for leave must comply with the family and medical leave directives and guidelines prior to starting leave. ~~It~~ **The superintendent** shall be ~~the responsibility of the superintendent~~ **responsible** to develop directives and guidelines as necessary to implement this policy. Such directives and guidelines shall be submitted to the school board for annual review.

The school district shall comply with written notice requirements as set forth in federal regulations.

1314. Employees returning from a leave permitted under this policy are eligible for reinstatement in the same or an equivalent position as provided by law. However, the employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the leave.



B. Six-week Leave

An employee who does not qualify for parenting leave under Paragraphs IV.A.1.a. or IV.A.1.b. above may qualify for a six-week unpaid parenting leave for birth or adoption of a child. The employee may qualify if he or she has worked for the school district for at least 12 consecutive months and has worked an average number of hours per week equal to one-half of the full time equivalent. This leave is separate and exclusive of the family and medical leave described in the preceding paragraphs.

C. Twenty-six-week Servicemember Family Military Leave

1. An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember shall be entitled to a total of 26 work weeks of leave during a 12-month period to care for the servicemember. The leave described in this paragraph shall ~~only~~ be available **only** during a single 12-month period. For purposes of this leave, the need to care for a servicemember includes both physical and psychological care.
2. During a single 12-month period, an employee shall be entitled to a combined total of 26 work weeks of leave under Paragraphs IV.A. and IV.C. above.
3. The 12-month period referred to in this section begins on the first day the eligible employee takes leave to care for a covered servicemember and ends 12 months after that date.
4. Eligible spouses employed by the school district are limited to an aggregate of 26 weeks of leave during any 12-month period if leave is taken for birth of the employee's child or to care for the child after birth; for placement of a child with the employee for adoption or foster care or to care for the child after placement; to care for the employee's parent with a serious health condition; or to care for a covered servicemember with a serious injury or illness.
5. The school district may request or require the employee to substitute accrued paid leave for any part of the 26-week period. Employees may be allowed to substitute paid leave for unpaid leave by meeting the requirements set out in the administrative directives and guidelines established for the implementation of this policy, if any. Employees eligible for leave must comply with the family and medical leave directives and guidelines prior to starting leave.
6. An employee will be required to submit sufficient medical certification issued by the health care provider of the covered servicemember and other information in support of requested leave and eligibility for such leave under this section within 15 days from the date of the request or as soon as practicable under the circumstances.

7. The provisions of Paragraphs IV.A.67., IV.A.910., IV.A.1112., IV.A.1213., and IV.A.1314. above shall apply to leaves under this section.

## V. SPECIAL RULES FOR INSTRUCTIONAL EMPLOYEES

- A. An instructional employee is one whose principal function is to teach and instruct students in a class, a small group, or an individual setting. This includes, but is not limited to, teachers, coaches, driver's education instructors, and special education assistants.
- B. Instructional employees who request foreseeable medically necessary intermittent or reduced work schedule leave greater than 20 percent of the work days in the leave period may be required to:
  1. take leave for the entire period or periods of the planned medical treatment; or
  2. move to an available alternative position for which the employee is qualified, and which provides equivalent pay and benefits, but not necessarily equivalent duties.
- C. Instructional employees who request continuous leave near the end of a semester may be required to extend the leave through the end of the semester. The number of weeks remaining before the end of a semester does not include scheduled school breaks, such as summer, winter, or spring break.
  1. If an instructional employee begins leave for any purpose more than five weeks before the end of a semester and it is likely the leave will last at least three weeks, the school district may require that the leave be continued until the end of the semester.
  2. If the employee begins leave for a purpose other than the employee's own serious health condition during the last five weeks of a semester, the school district may require that the leave be continued until the end of the semester if the leave will last more than two weeks or if the employee's return from leave would occur during the last two weeks of the semester.
  3. If the employee begins leave for a purpose other than the employee's own serious health condition during the last three weeks of the semester and the leave will last more than five working days, school district may require the employee to continue taking leave until the end of the semester.
- D. The entire period of leave taken under the special rules will be counted as leave. The school district will continue to fulfill the school district's leave responsibilities and obligations, including the obligation to continue the employee's health insurance and other benefits, if an instructional employee's leave entitlement ends before the involuntary leave period expires.

## VI. OTHER

- A. The provisions of this policy are intended to comply with applicable law, including the FMLA and applicable regulations. Any terms used from the FMLA will have the same meaning as defined by the FMLA and/or applicable regulations. To the extent that this policy is ambiguous or contradicts applicable law, the language of the applicable law will prevail.
- B. The requirements stated in the collective bargaining agreement between employees in a certified collective bargaining unit and the school district regarding family and medical leaves (if any) shall be followed.

## VII. DISSEMINATION OF POLICY

- A. This policy shall be conspicuously posted in each school district building in areas accessible to employees.
- B. This policy will be reviewed at least annually for compliance with state and federal law.

**Legal References:** Minn. Stat. §§ 181.940-181.944 (Parenting Leave)  
**10 U.S.C. § 101 et seq. (Armed Forces General Military Law)**  
29 U.S.C. § 2601 *et seq.* (Family and Medical Leave Act)  
**38 U.S.C. § 101 (Definitions)**  
29 C.F.R. Part 825 (Family and Medical Leave Act)

**Cross References:** MSBA Service Manual, Chapter 13, School Law Bulletin “M” (Statutory Provisions Which Grant Leaves to Licensed as well as Non-Licensed School District Employees – Family and Medical Leave Act Summary)

APPROVED: 12/1/05  
REVIEWED (NO CHANGES MADE): 12/6/07  
REVISED: 10/1/09  
REVIEWED (NO CHANGES MADE): 11/4/10

No changes recommended  
by MSBA

**MANDATED REPORTING OF MALTREATMENT OF VULNERABLE ADULTS 414**

*[Note: This policy reflects the mandatory law regarding reporting maltreatment of vulnerable adults and is not discretionary in nature.]*

**I. PURPOSE**

The purpose of this policy is to make clear the statutory requirements of school personnel to report suspected maltreatment of vulnerable adults.

**II. GENERAL STATEMENT OF POLICY**

- A. The policy of the school district is to fully comply with Minn. Stat. § 626.557 requiring school personnel to report suspected maltreatment of vulnerable adults.
- B. It shall be a violation of this policy for any school personnel to fail to report suspected maltreatment of vulnerable adults when the school personnel 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 which is not reasonably explained.

**III. DEFINITIONS**

- A. “Mandated Reporters” means any school personnel 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 any 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 any aversive or deprivation procedures for persons with developmental disabilities or related conditions not authorized under section 245.825. (c) Any 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 at or from a licensed facility which serves adults as set forth in Minn. Stat. § 626.5572, Subd. 21(a)(2); (3) receives services from a licensed home care provider or home care provider service; 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 an individual 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. “School Personnel” means professional employees or their delegates of the school district 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 shall immediately report the suspected maltreatment to the designated county entity.
- B. Whenever a mandated reporter, as defined herein, knows or has reason to believe that an individual made an error in the provision of therapeutic conduct to a vulnerable adult which results in injury or harm, which reasonably requires the care of a physician, such information shall 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 shall to the extent possible identify the vulnerable adult, the caregiver, the nature and extent of the suspected maltreatment, any 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 and this policy, or against vulnerable adult who is named in a report is prohibited.
- F. Any person who intentionally makes a false report under the provisions of applicable Minnesota law or this policy shall be liable in a civil suit for any actual damages suffered by the person or persons so reported and for any 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 shall appear in school personnel handbooks where appropriate.
- B. The school district will develop a method of discussing this policy with employees where appropriate.
- C. This policy shall be reviewed at least 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:** MSBA/MASA Model Policy 103 (Complaints – Students)  
Policy 406 (Public and Private Personnel Data)  
Policy 522 (Mandated Reporting of Child Neglect or Physical or Sexual Abuse)

ADOPTED: 11/8/05  
READOPTED - NO CHANGES: 11/1/07  
REVISED: 12/4/08  
REVISED: 11/5/09  
REVISED: 12/2/10

# CONFIDENTIAL DATA

## Maltreatment of Vulnerable Adults by School Personnel Reporting Form

Date Submitted \_\_\_\_\_ School District Name & Number \_\_\_\_\_  
 School Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 Principal \_\_\_\_\_  
 School Phone Number (\_\_\_\_) \_\_\_\_\_

### REPORTER

Name \_\_\_\_\_ Title \_\_\_\_\_  
 Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
 Phone Number (\_\_\_\_) \_\_\_\_\_ (Reporter is confidential under Minn Stat. § 626.556)

### ALLEGED VULNERABLE ADULT VICTIM

Name \_\_\_\_\_ DOB \_\_\_\_\_ Grade \_\_\_\_\_ Gender \_\_\_\_\_  
 Special Education: Y/N Disability Category \_\_\_\_\_  
 Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
 Phone Number (\_\_\_\_) \_\_\_\_\_ Parent/Guardian \_\_\_\_\_

### ALLEGED OFFENDER

Name \_\_\_\_\_ Title \_\_\_\_\_  
 Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
 Home Phone Number (\_\_\_\_) \_\_\_\_\_ Work Phone Number (\_\_\_\_) \_\_\_\_\_

### Type of Maltreatment

Date of Incident \_\_\_\_\_ Time of Incident \_\_\_\_\_  
 Location \_\_\_\_\_ County \_\_\_\_\_ City \_\_\_\_\_  
 Witness \_\_\_\_\_ Phone Number(\_\_\_\_) \_\_\_\_\_  
 Witness \_\_\_\_\_ Phone Number(\_\_\_\_) \_\_\_\_\_

Summary of Incident: (Attach additional sheets as needed.)

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School Investigation Information Included: Yes \_\_\_\_\_ Date to be sent \_\_\_\_\_

Were Police Notified: Y/N Date \_\_\_\_\_ Police Department \_\_\_\_\_  
 Contact Person \_\_\_\_\_ Phone Number (\_\_\_\_) \_\_\_\_\_

Please Contact Washington County Social Services Division – Adult Protection Reporting at  
 651/430-6484

*Maltreatment information is confidential data.*

*The schools with vulnerable adults are located in Washington County only.*



# MANDATED REPORTING OF CHILD NEGLECT OR PHYSICAL OR SEXUAL ABUSE

522

*[Note: This policy reflects the mandatory law regarding reporting of maltreatment of minors and is not discretionary in nature.]*

## I. PURPOSE

The purpose of this policy is to make clear the statutory requirements of school personnel to report suspected child neglect or physical or sexual abuse.

## II. GENERAL STATEMENT OF POLICY

- A. The policy of the school district is to fully comply with Minn. Stat. § 626.556 requiring school personnel to report suspected child neglect or physical or sexual abuse.
- B. It shall be a violation of this policy for any school personnel to fail to immediately report instances of child neglect, or physical or sexual abuse when the school personnel 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], includes an individual under age 21 who is in foster care.**
- C. “Immediately” means as soon as possible but in no event longer than 24 hours.
- D. “Mandated Reporter” means any school personnel 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 the commission or omission of any of the acts specified below, other than by accidental 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;
  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 which 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. "Nonmaltreatment mistake" means: (1) at the time of the incident, the individual was performing duties identified in the center's child care program plan required under Minn. Rules Part 9503.0045; (2) the individual has not been determined responsible for a similar incident that resulted in a finding of maltreatment for at least seven years; (3) the individual has not been determined to have committed a similar nonmaltreatment mistake under this paragraph for at least four years; (4) any injury to a child resulting from the incident, 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 individual providing services were both in compliance with all licensing requirements relevant to the incident. This definition only applies to child care centers licensed under Minn. Rules Ch. 9503.**

**FG. "Physical Abuse" means any physical injury, mental injury, or threatened injury, inflicted by a person responsible for the child's care other than by accidental means; or any physical or mental injury that cannot reasonably be explained by the child's history of injuries or any 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 which does not result in an injury. Abuse does not include the use of reasonable force by a teacher, principal, or school 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 that are done in anger or without regard to the safety of the child: (1) throwing, kicking, burning, biting, or cutting a child; (2) striking a child with a closed fist; (3) shaking a child especially 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 especially under age one on the face or head; (8) 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; (9) unreasonable physical confinement or restraint not permitted under Minn. Stat. § 609.379 including, but not limited to, tying, caging, or chaining; or (10) 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.

- GH.** “School ~~P~~ersonnel” means professional employee or professional’s delegate of the school district who provides health, educational, social, psychological, law enforcement or child care services.
- HI.** “Sexual ~~A~~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 threatened sexual abuse.
- IJ.** “Mental ~~H~~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.
- JK.** “Person responsible for the child’s care” means (1) an individual 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) an individual functioning outside the family unit and having responsibilities for the care of the child such as a teacher, school administrator, other school 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.
- KL.** “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 herein shall 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 shall 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 shall identify the child, any 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. A mandated reporter who knows or has reason to know of the deprivation of parental rights or the kidnapping of a child shall report the information to the local police department or the county sheriff.
- D. With the exception of a health care professional or a social service professional who is providing the woman with prenatal care or other health care services, a mandated reporter shall 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 the pregnancy in any way that is habitual or excessive.**
- ~~D~~E. A person mandated by Minnesota 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.
- ~~E~~F. Submission of a good faith report under Minnesota law and this policy will not adversely affect the reporter's employment, or the child's access to school.
- ~~F~~G. Any person who knowingly or recklessly makes a false report under the provisions of applicable Minnesota law or this policy shall be liable in a civil suit for any actual damages suffered by the person or persons so reported and for any 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.

*[Note: The Minnesota Department of Education (MDE) is responsible for assessing or investigating allegations of child maltreatment in schools. Although a report may be made to any of the agencies listed in Section IV. A., above, and there is no requirement to*

*file more than one report, if the initial report is not made to MDE, it would be helpful to MDE if schools also report to MDE.]*

## **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 school official. 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. School officials may not disclose to the parent, legal custodian, or guardian the contents of the notification or any 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 will be received by school officials prior to the interview. The notification shall 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 school property.
- C. Except where the alleged perpetrator is believed to be a school official or employee, the time and place, and manner of the interview on school premises shall be within the discretion of school officials, but the local welfare or law enforcement agency shall have the exclusive authority to determine who may attend the interview. The conditions as to time, place, and manner of the interview set by the school officials shall be reasonable and the interview shall be conducted not more than 24 hours after the receipt of the notification unless another time is considered necessary by agreement between the school officials 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 school employees when an interview is conducted on school premises.
- D. Where the alleged perpetrator is believed to be a school official or employee, the school district shall conduct its own investigation independent of MDE and, if involved, the local welfare or law enforcement agency.

- E. Upon request by MDE, the school district shall 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 school district shall provide the requested data in accordance with the requirements of the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, and the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g.

**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 school property, written notification of the agency's intent to interview on school property must be received by school officials prior to the interview. The notification shall 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 shall be private data. School officials 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 which was received by the school as described above in Paragraph A., shall be destroyed by the school 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 Minnesota 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 shall appear in school personnel handbooks.
- B. The school district will annually discuss this policy with school personnel.
- C. This policy shall be reviewed at least 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. § 121A.67 (Aversive and Deprivation Procedures)  
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. § 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 References:* Policy 414 (Mandated Reporting of Maltreatment of Vulnerable Adults)

ADOPTED: 12/15/75  
REVISED: 12/90  
REVISED: 07/07/05  
REVISED: 12/06/07  
REVISED: 12/04/08  
REVISED: 11/05/09  
REVISED: 12/02/10





Our Current Form

Confidential  
 Student Maltreatment Reporting Form  
 Division of Compliance and Assistance  
 1500 Highway 36 West  
 Roseville, Minnesota 55113-4266  
 Phone: (651) 582-8546 FAX: (651) 634-2277

Minnesota Department of Education staff use only			
Intake Person	MDE File #	Investigator	Date Assigned
<input type="checkbox"/> No Maltreatment <input type="checkbox"/> No Jurisdiction <input type="checkbox"/> I & R <input type="checkbox"/> Other (Please explain)			Date Reporter Notified: _____ <input type="checkbox"/> Verbal <input type="checkbox"/> Written (Attach written correspondence)

Date Submitted \_\_\_\_\_ School District Name \_\_\_\_\_ School District Number \_\_\_\_\_  
 Via: Fax  School Name \_\_\_\_\_ Address \_\_\_\_\_  
 Phone  City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
 Phone Number (\_\_\_\_) \_\_\_\_\_  
 U.S. Mail  Principal \_\_\_\_\_  
 Phone Number (\_\_\_\_) \_\_\_\_\_

**REPORTER** (name of person completing form) **Reporter is confidential under Minnesota Statute § 626.556**

Name \_\_\_\_\_ Title \_\_\_\_\_ Phone (\_\_\_\_) \_\_\_\_\_  
 Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

**ALLEGED VICTIM**

Name \_\_\_\_\_ DOB \_\_\_\_\_ Grade \_\_\_\_\_ Gender:  Male  Female  
 Special Education: Y/N Disability Description \_\_\_\_\_ Ethnicity \_\_\_\_\_  
 Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
 Parent/Guardian \_\_\_\_\_ Home Phone (\_\_\_\_) \_\_\_\_\_  
 Other Phone (\_\_\_\_) \_\_\_\_\_

**ALLEGED OFFENDER**

Name \_\_\_\_\_ Position \_\_\_\_\_ DOB \_\_\_\_\_ Gender:  Male  Female  
 Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
 Ethnicity \_\_\_\_\_ Home Phone Number (\_\_\_\_) \_\_\_\_\_ Other Phone (\_\_\_\_) \_\_\_\_\_

**INCIDENT**

Date \_\_\_\_\_ Time \_\_\_\_\_  
 Location/Address (if different than school) \_\_\_\_\_  
 Type of Alleged Maltreatment:  Physical Abuse  Sexual Abuse  Neglect  Unknown  
 Injury:  Yes  No  Unknown  
 Description of Incident and Injury: (please attach additional page if needed)

Police Notified:  Yes  No Police Department \_\_\_\_\_ Contact \_\_\_\_\_  
 Phone (\_\_\_\_) \_\_\_\_\_

