

## Personnel

### ~~Reporting Suspected Maltreatment of a Child or Vulnerable Adult~~ Mandated Reporting of Maltreatment of Vulnerable Adults

#### I. Purpose

~~This policy makes clear the requirements of school district employees to report suspected maltreatment of a child or vulnerable adult.~~

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 comply fully with Minnesota Statutes section 626.557 requiring school personnel to report suspected maltreatment of vulnerable adults.

B. A violation of this policy occurs when any school personnel fails 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.

~~A. The school district complies with state laws requiring a district employee to report suspected child neglect, physical abuse, or sexual abuse.~~

~~B. The district complies with state laws requiring a district employee to report suspected maltreatment of vulnerable adults.~~

~~C. A district employee violates this policy if the employee fails to report suspected maltreatment when the employee has reason to believe that a child or vulnerable adult is being or has been maltreated.~~

#### III. Definitions

A. "Abuse" means:

1. An act against a vulnerable adult that constitutes a violation of, an attempt to violate, or aiding and abetting a violation of: (a) assault in the first through fifth degrees as defined in Minnesota Statutes sections 609.221 to 609.224; (b) the use of drugs to injure or facilitate crime as defined in Minnesota Statutes section 609.235; (c) the solicitation, inducement, and promotion of prostitution as defined in Minnesota

Statutes section 609.322; and (d) criminal sexual conduct in the first through fifth degrees as defined in Minnesota Statutes 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.

2. Conduct which is not an accident or therapeutic conduct as defined in Minnesota Statutes section 626.5572 which produces or could reasonably be expected to produce physical pain or injury or emotional distress including, but not limited to, the following: (a) hitting, slapping, kicking, pinching, biting, or corporal punishment of a vulnerable adult; (b) 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; (c) 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 (d) use of any aversive or deprivation procedures for persons with developmental disabilities or related conditions not authorized under Minnesota Statutes section 245.825.
  3. Any sexual contact or penetration as defined in Minn. Stat. § 609.341 between a facility staff person, or a person providing services in the facility and a resident, patient, or client of that facility.
  4. 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.
- B. "Accident" means a sudden, unforeseen, and unexpected occurrence or event which:
1. is not likely to occur and which could not have been prevented by exercise of due care; and
  2. if occurring while a vulnerable adult 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 or event.
- C. "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.
- D. "Common entry point" means the entity responsible for receiving reports of alleged or suspected maltreatment of a vulnerable adult and designated by the Commissioner of the Minnesota Department of Human Services as the MN

Adult Abuse Reporting Center (MAARC).

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. “Immediately” means as soon as possible, but no longer than 24 hours from the time initial knowledge that the incident occurred has been received.

— ~~“Child” means a person under age 18.~~

G. “Mandated reporter” means **any** school district **employee personnel** who **knows or has reason to believe that** a vulnerable adult is being **maltreated** or has been maltreated.

~~“Maltreatment of a child” includes but is not limited to neglect, physical abuse, or sexual abuse of a child.~~

H. “Maltreatment” means the neglect, abuse, or financial exploitation of a vulnerable adult.

I. “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.

J. Neglect also means 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 Minnesota Statutes section 626.5572, Subd. 17.

K. “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.

L. ~~“Vulnerable adult” includes but is not limited to~~ means any person 18 years of

age or older who regardless of residence or whether any type of service is received, possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction that impairs the individual's ability to adequately provide adequately for the person's individual'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.

#### ~~IV. Reporting Procedures for Maltreatment of a Child~~

- ~~D. A mandated reporter will immediately report suspected maltreatment of a child to the local county welfare agency\*, police department, county sheriff, or agency responsible for assisting or investigating maltreatment:~~
- ~~a. Local county welfare agency—allegations of maltreatment in home, child foster care, family child care~~
  - ~~b. Department of Education—allegations of maltreatment in school~~
  - ~~c. Department of Human Services—allegations of maltreatment in licensed child care facilities~~
  - ~~d. Law Enforcement—allegations of violation of criminal statutes~~

~~\*To make a maltreatment report to Hennepin County Child Protection Services, call (612) 348-3552.~~

- ~~E. 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 entity responsible for assisting or investigating maltreatment. The written report must identify the child, a person believed to be responsible for the maltreatment of the child if the person is known, the nature and extent of the maltreatment, and the name and address of the reporter.~~
- ~~F. 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.~~
- ~~G. An employee mandated to report suspected maltreatment of a child who fails to report may be subject to criminal penalties and/or discipline up to and including termination of employment. An employee may also be liable in a civil suit for damages caused by a failure to report.~~
- ~~H. The district will not retaliate against an employee who makes a good faith report of maltreatment of a child under Minnesota law or this policy.~~
- ~~I. An employee who knowingly or recklessly makes a false report of maltreatment will be liable in a civil suit for damages and/or discipline up to and including termination of employment.~~

#### IV. Reporting Procedures for Maltreatment of a Vulnerable Adult

- A. A mandated reporter will immediately report suspected maltreatment of a vulnerable adult to the Minnesota Adult Abuse Reporting Center (MAARC) by calling at 1-844-880-1574. The MAARC is available twenty-four hours per day and seven days per week. If you are reporting an emergency that requires immediate assistance from law enforcement, the fire department, or an ambulance, first call 911 should be called first.
- B. Whenever a mandated reporter 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 will 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 report will, 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 Minnesota Statutes section 13.02, to the extent necessary to comply with the above reporting requirements.
- D. A school personnel 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 up to and including termination of employment. 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.
- ~~B. An employee mandated to report suspected maltreatment of a vulnerable adult who fails to report may be subject to criminal penalties, liability for damages caused by the failure, and/or discipline, up to and including termination of employment.~~
- E. Retaliation against any school personnel who makes a good faith report under Minnesota law and this policy, or against any vulnerable adult who is named in a report is prohibited.
- ~~C. The district will not retaliate against an employee who makes a good faith report of maltreatment of a vulnerable adult report under Minnesota law or this policy.~~
- F. Any school personnel who intentionally makes a false report under the provisions of applicable Minnesota law or this policy will 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 up to and including termination of employment.

~~An employee who intentionally makes a false report of maltreatment will be liable in a civil suit for any actual damages suffered, punitive damages, and attorney fees, and discipline up to and including termination of employment.~~

## V. Investigation

The responsibility for **assessing and** investigating reports of suspected maltreatment of **a vulnerable adult** rests with the entity designated by the state **and/or** county for receiving reports. When the alleged offender is believed to be a school district **personnel employee**, the district will conduct its own investigation independent of the designated entity.

## VI. Dissemination of Policy and Training

The school district will discuss this policy with district **personnel employees** when appropriate.

### Legal References:

Minn. Stat. ~~Ch.~~ § 13.02 (Minnesota Government Data Practices Act)

Minn. Stat. Ch. 245A (Human Services Licensing)

Minn. Stat. § 245.826 (Aversive and Deprivation Procedures; Licensed Facilities and Services)

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

Minn. Stat. § 609.232 (Crimes Against Vulnerable Adults; Definitions)

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

Minn. Stat. § 609.322 (Solicitation, Inducement, 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)

~~Minn. Stat. § 121A.58 (Corporal Punishment)~~

~~Minn. Stat. § 121A.582 (Student Discipline; Reasonable Force)~~

~~Minn. Stat. Ch. § 260E. (Reporting of Maltreatment of Minors Act)~~

### Cross References:

Policy 104 (Complaints – Students, Employees, Parents, Other Persons)

Policy 208 (Development, Adoption, and Implementation of Policies)

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

- Policy 403 (Discipline of School District Employees)
- Policy 406 (Public and Private Personnel Data)
- [Policy 414 \(Mandated Reporting of Child Neglect or Physical or Sexual Abuse\)](#)
- ~~[Policy 507 \(Corporal Punishment\)](#)~~
- Policy 515 (Protection and Privacy of Student Records)

INDEPENDENT SCHOOL DISTRICT [NO. 273](#)  
Edina, MN

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