STUDENT PERSONNEL – MALTREATMENT OF MINORS MANDATED REPORTING OF CHILD NEGLECT OR PHYSICAL OR SEXUAL ABUSE ADMINISTRATIVE PROCEDURES

PERSONS MANDATED TO REPORT: A person who knows or who has reason to believe a child is being neglected or physically or sexually abused, as defined below, or has been neglected or physically or sexually abused within the preceding three years, shall immediately report the information to the human service agency, police department, or the county sheriff where the child resides if the person is:

- 1. A professional or professional's delegate who is engaged in the practice of the healing arts, social services, hospital administration, psychological or psychiatric treatment, child care, education, or law enforcement; or
- 2. Employed as a member of the clergy and received the information while engaged in ministerial duties, provided that a member of the clergy is not required by this subdivision to report information that is otherwise privileged.

RULES FOR REPORTING:

- 1. If you have contact with or have responsibility for children in your work, you are mandated to report any suspected neglect, physical and/or sexual abuse.
- 2. You must report suspected neglect or abuse if you have knowledge about the abuse or if you have reasonable cause to believe a child is being neglected or abused.
- 3. You must report your suspicions personally.
- 4. You must report immediately. (The law says within 24 hours, however, it is a wise practice to call it in as soon as possible. A report made early in the day allows human services and law enforcement time during the day to do an investigation and provide for the safety of the child that day, if necessary.)
- 5. Oral reports must be followed up with a written report within 72 hours.
- 6. **DO NOT** attempt to investigate the case on your own.
- 7. **DO NOT** contact the child's parents on your own.
- 8. Reports can be made either to law enforcement or human services.
- 9. You will be immune from civil liability if you report in good faith.
- 10. If you fail to report, you may be subject to criminal prosecution.

Feedback to Mandated Reporters: Any person mandated to report shall receive a summary of the disposition of any report made by that reporter, including whether the case has been opened for child protection or other services, or if the referral has been made to a community organization, unless release would be detrimental to the best interests of the child.

Immunity from Liability: (Criminal or Civil) is granted to any person making a voluntary or mandated report in good faith.

Failure to Report: Is a misdemeanor, which the County Attorney is required to prosecute.

Malicious or Reckless Reports: When a person knowingly makes a false report, they shall be liable in a Civil Suit for actual damages suffered by the person(s) so reported.

"Persons 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 of the child; or
- 2. An individual functioning outside the family unit and having responsibilities for the care of the child such as a teacher, school administrator, 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.

"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 or by a person in a position of authority, to any act which constitutes criminal sexual conduct. Criminal sexual conduct includes, but is not limited to, the intentional touching (over or under clothing) of intimate parts by the actor, or of the actor by the victim. Sexual abuse also includes any act which involved a minor which constitutes prostitution. Sexual abuse includes threatened sexual abuse.

"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;
- 2. Failure to protect a child from conditions or actions which imminently and seriously endanger the child's physical or mental health when reasonably able to do so;
- 3. Failure to provide the necessary supervision or child care arrangements appropriate for a child after considering factors as the child's age, mental ability, physical condition, length of absence, or environment, when the child is unable to care for the child's own basic needs or safety, or the basic needs or safety of another child in their care;
- 4. Failure to ensure that the child is educated as defined in sections 120A.22 and 260.155, subdivision 9;
- 5. Nothing in this section shall be construed to mean that a child is neglected solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child in lieu of medical care; except that a parent, guardian, or caretaker, or a person mandated to report pursuant to subdivision 3, has a duty to report if a lack of medical care may cause serious

danger to the child's health. This section does not impose upon persons, not otherwise legally responsible for providing a child with necessary food, clothing, shelter, education, or medical care, a duty to provide that care;

- 6. Prenatal exposure to a controlled substance, as defined in section 253B.02, subdivision 2 (cocaine, heroin, phencyclidine, methamphetamine, and amphetamine or their derivatives), used by the mother for a non-medical purpose, as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at the delivery of the child at birth, or medical effects or development delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance. Reporters MAY also report if they know or have reason to believe that a woman who knows she is pregnant knowingly abuses alcohol.
- 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;
- 8. Emotional harm from the 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;
- 9. "Medical Neglect" includes, but is not limited to, the withholding of medically indicated treatment from a disabled infant.

"Physical Abuse" means any physical injury, mental injury, or threatened injury, inflicted by a person responsible for the child's care on a child other than by accidental means, or any physical or mental injury that cannot reasonably be explained by the child's history of injuries. Abuse does not include reasonable and moderate physical discipline of a child administrated by a parent or legal guardian which does not result in an injury. Actions which are not reasonable and moderate include, but are not limited to, any of the following that are done in anger or without regards to the safety of the child:

- 1. Throwing, kicking, burning, biting, or cutting of 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 non-accidental injury to a child under 18 months of age;
- 5. Unreasonable interference with a child's breathing;
- 6. Threatening a child with a weapon;
- 7. Striking a child under age one on the face or head;
- 8. Purposely giving a child poison, or dangerous, harmful or controlled substance which were not prescribed for the child by a practitioner, in order to control or punish the child; or other substances that substantially affect the child's behavior, motor coordination, or judgment or that

results in sickness or internal injury, or subjects the child to medical procedures that would be unnecessary if the child were not exposed to the substances;

9. Unreasonable physical confinement or restraint, including but not limited to, tying, caging, or chaining.

"Mental Injury" means an injury to the psychological capacity or emotional stability of the 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.

"Threatened Injury" means a statement, overt act, condition, or status that represents a substantial risk of physical or sexual abuse or mental injury.

BELTRAMI COUNTY HUMAN SERVICES - 218-759-8300

BELTRAMI COUNTY SHERIFF'S DEPARTMENT OR BEMIDJI POLICE DEPARTMENT - 218-751-9111

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. A violation of this policy occurs when any school personnel fails 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) and Minn. Stat. Ch. 260D (Child in Voluntary Foster Care for Treatment), includes an individual under age 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 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 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 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.
- G. "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 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) 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.
- H. "School personnel" means professional employee or professional's delegate of the school district who provides health, educational, social, psychological, law enforcement, or child care services.
- I. "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 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).
- J. "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.
- K. "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.
- L. "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. 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 shall 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 shall report the information to the local police department or the county sheriff.
- E. 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.
- F. 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.
- G. 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.
- H. 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

- The responsibility for investigating reports of suspected neglect or physical or A. 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. Under certain conditions, 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 as well as with parent consent for the interview, unless the parent is the subject of the investigation.
- 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, parental consent, 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 develop a method of discussing 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. § 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 References: MSBA/MASA Model Policy 415 (Mandated Reporting of Maltreatment of Vulnerable Adults)

ISD NO. 31 SBR 700-90-3R

ORIGINAL: SEPTEMBER 21, 1992 REVISED: JUNE 18, 2001 21 MARCH 2016

PAGE 10 OF 12

GENERAL RULES FOR REPORTING MALTREATMENT OF MINORS CHILD NEGLECT OR PHYSICAL OR SEXUAL ABUSE

Numbers to report to: Beltrami County Human Services 759-8300

(Ask for Child Protection Intake)

Law Enforcement Center 751-9111

RULES FOR REPORTING

- 1. If you have contact with or have responsibility for children in your work, you are mandated to report any suspected neglect, physical and/or sexual abuse.
- 2. You must report suspected neglect or abuse if you have knowledge about the abuse or if you have reasonable cause to believe a child is being neglected or abused.
- 3. You must report your suspicions personally.
- 4. You must report immediately. (The law says within 24 hours, however, it is a wise practice to call it in as soon as possible. A report made early in the day allows human services and law enforcement time during the day to do an investigation and provide for the safety of the child that day, if necessary.)
- 5. Oral reports must be followed up with a written report within 72 hours.
- 6. DO NOT attempt to investigate on your own.
- 7. DO NOT contact the child's parents on your own.
- 8. Reports can be made either to law enforcement or human services.
- 9. You will be immune from civil liability if you report in good faith.
- 10. If you fail to report, you may be subjected to criminal prosecution.

Suspected Child Abuse/Neglect Referral Form Bemidji Area Schools 3300 Gillett Drive NW 502 Minnesota Ave NW Bemidji, MN 56601

Who Reports? Anyone. However, Minnesota Statues 626.556 as amended – Reporting Maltreatment of Minors makes it mandatory for most people working with children to report suspected neglect, physical and/or sexual abuse of children. Completion of this report with information available to you constitutes a written report as required by Minnesota Law. You are not required to use this form. You are required to report.

How To Report: An oral report should be made immediately – telephone or otherwise. Contact Beltrami County Human Services – 333-8316 *or* 333-3404; Beltrami County Law Enforcement & Police Department – 333-9111 or 751-9111. **The oral report must be followed by a written report within 72 hours. Fax to 333-8307 or send written report to Beltrami County Human Services, 616 America Avenue NW, Suite 100, Bemidji, MN 56601.**

Report/Referral Person Making Report Date Position School Telephone Number **Child Involved** Name of Child (Last-First-Middle) Birth Date Grade Male Female Name of Parent/Adult Responsible for Child Relationship Telephone Number(s) Home: Work: ____ Address Cell: **Nature and Description of Incident** (*Use back of sheet if necessary*) Other individuals who are aware of this referral: Signature of person making report: Date of oral report: ______ To whom reported: _____ Check here if you wish to receive information from Social Services regarding the disposition of this report.