

Personnel

Mandated Reporting of Maltreatment of Vulnerable Adults

I. Purpose

This policy is to make clear the statutory requirements of school district 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 district personnel to report suspected maltreatment of vulnerable adults.
- B. A violation of this policy occurs when any school district personnel fails to report suspected maltreatment of vulnerable adults when the school district 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

For purposes of this policy, the definitions included in this section apply.

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 Minnesota Statutes 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.
 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 Minnesota 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.
- G. "Mandated reporter" means any school district personnel who knows or has reason to believe a vulnerable adult is or has been maltreated.
- H. "Maltreatment" means the neglect, abuse, or financial exploitation of a vulnerable adult.
- I. "Neglect" means:
 - 1. 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, or
 - 2. 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.

- J. "School district 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.
- K. "Vulnerable adult" 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 the 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

- A. A mandated reporter will immediately report suspected maltreatment of a vulnerable adult to the Minnesota Adult Abuse Reporting Center (MAARC) by calling 1-844-880-1574. The MAARC is available twenty-four hours per day and

seven days per week. If reporting an emergency that requires immediate assistance from law enforcement, the fire department, or an ambulance, 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. School district 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.
- E. Retaliation against any school district 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.
- F. Any school district 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.

V. Investigation

The responsibility for 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, the school district will conduct its own investigation independent of the designated entity.

VI. Dissemination of Policy and Training

- A. This policy will appear in school district personnel handbooks.

- B. The school district will discuss this policy with personnel when appropriate.

Legal References:

Minn. Stat. § 13.02 (Minnesota Government Data Practices Act - Defining Not Public Data)
Minn. Stat. Ch. 245A (Human Services Licensing)
Minn. Stat. § 245.825 (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)

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 the School District, a 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 515 (Protection and Privacy of Student Records)

INDEPENDENT SCHOOL DISTRICT NO. 273
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Policy
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*Policy 414 and Policy 415 were combined into a single policy. Policy 414 was sunsetted as a separate policy.

**Policy 415 was divided. Policy 414 was re-adopted as a separate policy.