

Marine Village School Policy 4.7

Adopted:

Revised:

MANDATED REPORTING OF MALTREATMENT OF MINORS

I. PURPOSE

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

II. GENERAL STATEMENT OF POLICY

- A. The policy of the school is to fully comply with Minnesota statutes requiring school personnel to immediately report suspected child maltreatment to the local welfare agency, police department, county sheriff, or Minnesota Department of Education (MDE).
- B. A violation of this policy occurs when any school personnel fail to immediately report instances of child maltreatment to the local welfare agency, police department, county sheriff, or MDE when the school personnel know or has reason to believe a child is being maltreated or has been maltreated within the preceding three years.

III. DEFINITIONS

- A. **Accidental** means a sudden, nor 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, an
 - 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 reports** means any of the following acts or omissions:
 - 1. Egregious harm
 - 2. Neglect
 - 3. Physical abuse
 - 4. Sexual abuse
 - 5. Substantial child endangerment
 - 6. Threatened injury
 - 7. Mental injury

8. Maltreatment of a child in a facility

E. Mandated reporter means any school personnel who knows or has reason to believe a child is being maltreated or has been maltreated within the preceding three years.

F. 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.

G. 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;

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; 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;

3. failure to provide for necessary supervision or childcare 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 Minnesota statutes;

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 in lieu of medical care, except where the lack of medical care may cause serious danger to the child's health.

H. Non-maltreatment mistake means:

1. at the time of the incident, the individual was performing duties identified in the center's childcare 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 non-maltreatment 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

I. 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 parent, guardian, or other person having 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.

J. 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, or any aversive or deprivation procedures, or regulated interventions, that have not been authorized by Minnesota statutes.

Abuse does not include reasonable and moderate physical discipline of a child administered by parent(s)/guardian(s) which does not result in an injury. Abuse does not include the use of reasonable force by a teacher, administrator, or school employee as allowed by Minnesota statutes and school policies.

Actions which are not reasonable and moderate include, but are not limited to, any of the following:

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;
7. striking a child under age one on the face or head;
8. striking a child who is at least age one but under age four on the face or head, which results in an injury;
9. 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;
10. unreasonable physical confinement or restraint not permitted under Minn. Stat. § 609.379 including, but not limited to, tying, caging, or chaining; or
11. 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.

K. Report means any communication received by the local welfare agency, police department, county sheriff, or agency responsible for child protection pursuant to this section that describes maltreatment of a child and contains sufficient content to identify the child and any person believed to be responsible for the maltreatment, if known.

L. School personnel means professional employees or their delegates of the school who provide health, educational, social, psychological, law enforcement, or childcare services.

M. 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 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 all reports of known or suspected child sex trafficking involving a child who is identified as a victim of sex trafficking. Sexual abuse includes child sex trafficking as defined in Minnesota statutes. 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).

N. 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:

1. subjected the child to, or failed to protect a child from, an overt act or condition that constitutes egregious harm,
2. been found to be palpably unfit under Minn. Stat. § 260C.301 or a similar law of another jurisdiction,
3. committed an act that has resulted in the involuntary termination of parental rights under Minn Stat. § 260C.301, or a similar law of another jurisdiction; or
4. committed an act that has resulted in an involuntary transfer of permanent legal and physical custody of a child to a relative under Minn. Stat. § 260C.201, Minn. Stat. § 260C.515, or a similar law of another jurisdiction.

IV. REPORTING PROCEDURES

- A. Mandated reporters shall immediately report the maltreatment, which they know or have reason to believe is happening or has happened within the preceding three years to the local welfare agency, police department, county sheriff, tribal social services, or tribal police department. The reporters will include their name and address in the report.
- B. Any volunteer or other person interacting with the school who is not a mandated reporter may voluntarily report to the local welfare agency, agency responsible for assessing or investigating the report, police department, county sheriff, tribal social services agency, or tribal police department if the person knows, has reason to believe, or suspects a child is being or has been maltreated.
- C. 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 maltreatment of the child if the person is known, the nature and extent of the maltreatment and the name and address of the reporter.
- D. 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(s)/guardian(s) 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.
- E. 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.
- F. 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.

- G. 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.
- H. 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.
- I. 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 (1) any actual damages suffered by the person or persons so reported and (2) any punitive damages set by the court or jury. The reckless making of a false report may also result in discipline up to and including termination of employment.
- J. Additional reports are not required, but if the initial report is not submitted to the MDE, it is recommended that a copy be sent to MDE to support their role in assessing or investigating allegations of child maltreatment in schools.

V. NOTIFICATION

Regardless of whether a report is made, as soon as practicable after the school receives information regarding an incident that may constitute maltreatment of a child in a school facility, the school shall inform parent(s)/guardian(s) that:

1. an incident occurred that may constitute maltreatment of the child;
2. when the incident occurred; and
3. the nature of the conduct that may constitute maltreatment.

VI. INVESTIGATION

A. The responsibility for investigating reports of suspected neglect or physical or sexual abuse rests with the appropriate county, state, or local 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 parent(s)/guardian(s). School officials may not disclose to parent(s)/guardian(s) 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, 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 for 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 staff when an interview is conducted on school premises.

D. Where the alleged perpetrator is believed to be a school official or employee, the school 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 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 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.

VII. MAINTENANCE OF SCHOOL RECORDS CONCERNING ABUSE OR POTENTIAL ABUSE

All records regarding a report of maltreatment, including any notification of intent to interview a child at school, shall be destroyed by the school only when ordered by the agency conducting the investigation or by a court of competent jurisdiction.

VIII. 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 also be applicable.

IX. RETALIATION PROHIBITED

The school shall not retaliate against the person for reporting in good faith maltreatment of a child, or against a child with respect to whom a report is made, because of the report.

X. DISSEMINATION OF POLICY AND TRAINING

A. This policy shall appear in school personnel handbooks and training provided to all reporters through the local welfare agency or Department of Human Services.

B. The school 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. § 125A.0942 (Standards for Restrictive Procedures)
- Minn. Stat. § 243.166, Subd. 1b(a)(b) (Registration of Predatory Offenders)
- Minn. Stat. § 245.825 (Aversive or Deprivation Procedures)
- Minn. Stat. Ch. 260C (Juvenile Safety and Placement)
- Minn. Stat. Ch. 260D (Child in Voluntary Foster Care for Treatment)
- Minn. Stat. Ch. 260E (Reporting of Maltreatment of Minors)
- 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)
- 20 U.S.C. § 1232g (Family Educational Rights and Privacy Act)