

*Adopted: Orig. 6/23/2013*

*Revised: 8/25/2020*

## **401 MANDATED REPORTING OF CHILD NEGLECT OR PHYSICAL OR SEXUAL ABUSE**

### **I. PURPOSE**

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

### **II. GENERAL STATEMENT OF POLICY**

It is the policy of the District to fully comply with Minn. Stat. § 626.556 requiring staff to report suspected child neglect or physical or sexual abuse.

It shall be a violation of this policy for any District staff to fail to report instances of child neglect, or physical or sexual abuse when the staff 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. "Child" means one under age 18.
- B. "Immediately" means as soon as possible but in no event longer than 24 hours.
- C. "Mandated Reporters" means any District staff 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 shall immediately report the information to the local welfare agency, police department, or the county sheriff. ("Immediately" means as soon as possible but in no event later than 24 hours.)
- D. "Neglect" means failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter or medical care when reasonably able to do so, 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, or failure to take steps to ensure that a child is educated in accordance with state law. 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 such means for treatment or care of disease, except where the lack of medical care may cause imminent and serious danger to the child's health.

- E. "Physical Abuse" means any physical or 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. ("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.)
- F. "Staff" means anyone providing paid service to the school.
- G. "Sexual Abuse" means the subjection of a child by a person responsible for the child's care, 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 threatened sexual abuse. (Threatened injury means a statement, overt act, condition, or status that represents a substantial risk of physical or sexual abuse or mental injury.)

#### **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 or county sheriff.
- 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 or local welfare agency. 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 person mandated by Minnesota law and this policy to report who knows or has reason to believe that a child is neglected or physically or sexually abused, as defined by Minnesota law and this policy, or has been neglected or physically or sexually abused within the preceding three years, and fails to report is guilty of a misdemeanor, and such a failure to report may result in discipline.
- D. 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.
- E. 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.

## **V. INVESTIGATION**

- A. The responsibility for investigating reports of suspected neglect or physical or sexual abuse rests with the appropriate county agency or agencies. The investigating agency may interview the child at school. The interview may take place outside the presence of a District staff member. The investigating agency, not the District, is responsible for either notifying or withholding notification of the interview to the parent, guardian or person responsible for the child's care. The District staff 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 District property, written notification of intent to interview the child on school property will be received by the District staff 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 District property.
- C. Except where the alleged perpetrator is believed to be a District staff, the time and place, and manner of the interview on District premises shall be within the discretion of District 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 District staff 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 staff team 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 staff when an interview is conducted on District premises.
- D. Where the alleged perpetrator is believed to be a District staff member, the District shall conduct its own investigation independent of the local welfare or law enforcement agency.

## **VI. 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.

## **VII. DISSEMINATION OF POLICY AND TRAINING**

- A. This policy shall appear in staff handbooks.
- B. The District will develop a method of discussing this policy with employees.
- C. This policy shall be reviewed at least annually for compliance with state law as indicated through legal updates from the MDE.

*Legal References:* Minn. Stat. § 626.556 et seq. (Reporting of maltreatment of minors)