MANDATED REPORTING OF CHILD NEGLECT OR PHYSICAL OR SEXUAL ABUSE

Need, Question, Issue

What are the statutory requirements of school personnel to report suspected child neglect or physical or sexual abuse?

POLICY STATEMENT

M.S. §626.556 declares that the public policy of this state is to protect children whose health or welfare may be jeopardized through physical abuse, neglect, or sexual abuse. Professional educators who know or have 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. A person mandated to report neglect, physical or sexual abuse who knows or has reason to know of a violation of M.S. §609.25 (Kidnapping) or M.S. §609.26 (Depriving Another of Custodial Rights) shall report to the local police department or County Sheriff. It is also the policy of this school district that all employees who are not mandated by law shall report suspected maltreatment of minors to the local welfare agency, police department or the County Sheriff.

RULES & PROCEDURES

1. OBJECTIVE

The objective of this procedure is to give direction, articulate lines of communication, and provide action steps in cases where abuse of minors is suspected.

2. GENERAL

The intent of the law on reporting maltreatment of minors is specifically detailed in Minnesota Statutes 1980, Chapter 626, Section 626.556, Subdivisions 1 through 11.

B. This legislation provides for the protection of children whose health or welfare may be in jeopardy due to physical abuse, neglect, or sexual abuse.
C. Subdivision 3 of this law mandates that educators who have knowledge of or reasonable cause to believe a child is being neglected, physically or sexually abused (see definitions below) must immediately report this information to the local welfare agency, the policy department or the county sheriff. (In the Centennial Public Schools this reporting will follow the procedure indicated in this publication). It also states that the reporter of suspected child abuse shall upon request to the local welfare agency, receive a concise summary of the disposition of the report, unless release would be detrimental to the best interests of the child.

M.S.§626.556, Subdivision 9 mandates that when an educator has reasonable cause to believe a child has died as a result of neglect or physical or sexual abuse, that information must be reported to the appropriate medical examiner or coroner instead of the local welfare agency, policy department or county sheriff.

D. Subdivision 4 of this law provides immunity from liability for any person who reports a suspected case of maltreatment if that person is participating in good faith and exercising due care in making that report. This statutory immunity applies not only to those voluntarily making child abuse reports who are acting in good faith and exercising due care.

Subdivision 5 states that any person who willfully or recklessly makes a false report is liable in a civil suit for any actual damages suffered by the person or persons reported and for any punitive damages set by the court or jury.

E. Subdivision 6 states that failure by a professional to report suspected neglect, physical or sexual abuse shall constitute a misdemeanor.

F. Subdivision 11 states that an individual subject shall have access to the record in accordance with sections 15.1611 to 15.1699 except that the name of the reporter of suspected child abuse shall be confidential while the report is under investigation. After the completion of the investigation, the name of the reporter shall be confidential but shall be accessible to the individual subject of the record upon court order.

3. **DEFINITION OF TERMS**

A. **Sexual Abuse**

"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 M.S. §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 which involves 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.
B. **Physical Abuse**

*"Physical abuse"* means any physical, 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 and deprivation procedures that have not been authorized under M.S. §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. State. §121A.582, “Student Discipline.”

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
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
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, “Corporal Punishment.”

C. **Neglect**

*"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 that seriously endangers 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, consistent with Minn. Stat. §125A.09, subd. 3

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.

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.

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 state 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.

D. Person Responsible for the Child’s Care
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.
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, daycare, babysitting whether paid or unpaid, counseling, teaching, and coaching.
4. 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.

5. PROCEDURES:

A. Any staff who suspects neglect, physical abuse, or sexual abuse is mandated to make an immediate report to the appropriate police department, the county sheriff, or local welfare agency.

Anoka County Family Protection Services 763-422-7125
(911 after hours)

The reporting staff member should gather the following information on the abused or neglected child:

1. The child’s full name, date of birth, home address, phone, and parent’s names.
2. Any person believed to be responsible for the abuse or neglect of the child.
3. The nature and extent of the abuse or neglect.
4. The name and address of the reporting party.

B. An oral report is to be made to the appropriate child protection agency after the information has been obtained. A detailed written report to the notified agency
should follow the oral report.

C. If the reporting staff member believes that the child is abandoned, subject to a real or imminent threat, or in need of medical attention, confer with the building principal/program supervisor on whether to send the child home. Officers can remove a child from a threatening environment to protect the child. If a police officer or child protection worker comes to the school to interview a child, the principal shall be notified. The principal will be given a written notice of the intent to interview a child at school.

D. School officials cannot disclose to the parents, legal custodian, guardian, or perpetrator, that a request to interview a child has been made until after the abuse or neglect investigation or assessment has been concluded.

E. Any staff member who makes a child abuse or neglect report in good faith is provided with civil and criminal immunity in accordance with the Maltreatment of Minors Reporting Act. Additionally, the identity of the reporter is protected except in very limited circumstances.

F. Be sure to request a written response from the county regarding the investigation.

G. Administrative follow-up may include the following:
   1. Notify parent(s) or guardian(s) of students involved in the incident.
   2. Notify the superintendent or designee
   3. Notify DART (District Action Response Team).
   4. Determine method of informing staff, students, and parents, if appropriate.
   5. Prepare an accident report.
   6. Prepare a news media release with the superintendent and DART, if appropriate.
   7. Hold an informational meeting with all staff, if appropriate.
ANOKA COUNTY HUMAN SERVICES DIVISION
REFERRAL OF SUSPECTED CHILD ABUSE/NEGLECT

Please complete as much of the requested information as possible.

FAMILY INFORMATION

Child’s Name ___________________________ Date of Report _________________________

Name of School (or daycare) ___________________________ Date of Birth _________________________ Grade ______

Parent(s)/Guardian: Name ___________________________ Address ___________________________

Home Phone ___________________________ Work Phone ___________________________

Other children in the home (list names and ages, if known) ___________________________

PERSONS NOTIFIED OF THIS REPORT:

☒ Child
☒ Parent
☒ Alleged Perpetrator
☒ Police

☑ Principal
☑ Nurse/health aide
☑ Counselor/School Social Worker
☑ Other

Name of alleged perpetrator ___________________________ Relationship to child ___________________________

Address ___________________________

Phone ___________________________

Reason for referral (please include conditions, dates, descriptions of injury, statements of child, etc. You may use the back of this page if necessary.)

__________________________________________________________________________________________

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Reporters Name ___________________________ (Please Print)

Date ___________________________

Please return white and yellow copies to:
Anoka County Human Services Division
Intake Unit
2100 3rd Avenue
Anoka, MN 55303-2264

Agency School ___________________________

Address ___________________________

Phone ___________________________

Do you want an outcome report? YES ☐ NO ☐

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