

Adopted: April 8, 2019 [New Policy] [MSBA Model Policy Modified]

Contact Person: Assistant Superintendent

**POLICY 415 MANDATED REPORTING OF SUSPECTED MALTREATMENT OF
VULNERABLE ADULTS**

I. PURPOSE

To ensure the required reporting of suspected maltreatment of vulnerable adults.

II. GENERAL STATEMENT OF POLICY

- A. When school personnel know or have reason to believe a vulnerable adult is being maltreated, the school personnel must immediately report their knowledge or belief.
- B. The Superintendent will establish and maintain regulation that:
- Defines relevant terminology
 - Prescribes reporting procedures
 - Prescribes the investigation process
 - Prescribes dissemination and training regarding this Policy and Regulation

Adopted: March 19, 2019 [New Policy]

Contact Person: Assistant Superintendent

**REGULATION 415 MANDATED REPORTING OF SUSPECTED MALTREATMENT
OF VULNERABLE ADULTS**

I. DEFINITIONS

- A. “Mandated Reporters” means any school personnel who has reason to believe that a vulnerable adult is being or has been maltreated.

- B. “Maltreatment” means the neglect, abuse, or financial exploitation of a vulnerable adult.

- C. “Neglect” means 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. Neglect also includes 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 Minn. Stat. § 626.5572, Subd. 17.

- D. “Abuse” means: (a) An act against a vulnerable adult that constitutes a violation of, an attempt to violate, or aiding and abetting a violation of: (1) assault in the first through fifth degrees as defined in sections 609.221 to 609.224; (2) the use of drugs to injure or facilitate crime as defined in section 609.235; (3) the solicitation, inducement, and promotion of prostitution as defined in section 609.322; and (4) criminal sexual conduct in the first through fifth degrees as defined in 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. (b) Conduct which is not an accident or therapeutic conduct as defined in this section, which produces or could reasonably be expected to produce physical pain or injury or emotional distress including, but not limited to, the following:

- (1) hitting, slapping, kicking, pinching, biting, or corporal punishment of a vulnerable adult; (2) 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; (3) 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 (4) use of any aversive or deprivation procedures for persons with developmental disabilities or related conditions not authorized under section 245.825. (c) Any sexual contact or penetration as defined in 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. (d) 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. Abuse does not include actions specifically excluded by Minn. Stat. § 626.5572, Subd. 2.
- 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. "Vulnerable Adult" means any person 18 years of age or older who: (1) is a resident or inpatient of a facility; (2) receives services required to be licensed under Minn. Stat. Ch. 245A, except as excluded under Minn. Stat. § 626.5572, Subd. 21(a)(2); (3) receives services from a licensed home care provider or person or organization that offers, provides, or arranges for personal care assistance services under the medical assistance program; or (4) regardless of residence or type of service received possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction that impairs the individual's ability to adequately provide the person'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.

- G. "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.
- H. "School Personnel" means professional employees or their delegates of the District engaged in providing health, educational, social, psychological, law enforcement, or other caretaking services of vulnerable adults.
- I. "Immediately" means as soon as possible, but no longer than 24 hours from the time initial knowledge that the incident occurred has been received.

II. REPORTING PROCEDURES

- A. A mandated reporter, as defined herein, shall immediately report the suspected maltreatment to the Minnesota Adult Abuse Reporting Center (the entity designated by the county for receiving reports), the Bloomington Police Department, or county sheriff. If the mandated reporter receives a court order or subpoena, they are to contact the District's Assistant Superintendent attorney for consultation.
- B. Immediate Danger - If it is known or suspected that a vulnerable adult is in immediate danger, call the Minnesota Adult Abuse Reporting Center or the Bloomington Police Department (i.e. School Liaison Officer). If the School Liaison Officer is not available, police dispatch should be contacted using 911.
- C. No Immediate Danger - If the vulnerable adult is not in immediate danger, but there is reason to believe maltreatment has or is occurring, the Minnesota Adult Abuse Reporting Center should be contacted.
- D. 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 shall be reported immediately to the designated county agency. The mandated reporter also may report a belief that the error did not constitute maltreatment and why the error does not constitute maltreatment.
- E. The reporter shall 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 Minn. Stat. § 13.02 to the extent necessary to comply with the above reporting requirements.

- F. A person mandated by Minnesota law and this Policy to report suspected maltreatment who fails to report may be subject to criminal penalties and/or discipline, up to and including termination of employment.
- G. In situations where there is uncertainty regarding whether or not a report should be made, the Minnesota Adult Abuse Reporting Center should be contacted.
- H. Submission of a good faith report under Minnesota law and this Policy will not adversely affect the reporter’s employment nor the alleged vulnerable adult’s access to educational services. Retaliation from any good faith report is prohibited.
- I. Any person who intentionally 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.
- J. District personnel should inform their supervisor regarding reporting matters. This information sharing is not in lieu of maltreatment reporting responsibilities on the part of mandated reporters. In addition, any individual may make a voluntary report to the designated county agency or local police department.

III. INVESTIGATION

The responsibility for investigating reports of suspected maltreatment of a vulnerable adult rest with the Minnesota Adult Abuse Reporting Center (the entity designated by the county for receiving reports). The Minnesota Adult Abuse Reporting Center refers maltreatment reports to the lead investigative agency within the appropriate jurisdiction: Hennepin County adult protection services, the state Office of Health Facility Complaints, the Minnesota Department of Human Services Licensing Division, or law enforcement, depending on where the maltreatment occurred and whether or not criminal activity is suspected.

IV. MAINTENANCE OF SCHOOL RECORDS CONCERNING ABUSE OR POTENTIAL ABUSE

All records regarding a report of maltreatment, including any notification of intent to interview which was received by the District, shall be destroyed by the District only when ordered by the agency conducting the investigation or by a court of competent jurisdiction. Written reports made to the Minnesota Adult Abuse Reporting Center will be kept in the Assistant Superintendent's office.

V. DISSEMINATION OF POLICY AND TRAINING

- A. This Policy shall be reviewed with each District staff at the time of entering into the person's employment contract.
- B. The District will develop a method of discussing this policy with staff where appropriate.
- C. This Policy shall be reviewed at least annually for compliance with state law.

APPENDIX
REFERRAL RESOURCE CONTACT NUMBERS

Minnesota Adult Abuse Reporting Center 844-880-1574
Hennepin County Adult Protection Services 612-543-9912
Bloomington Police Department 952-563-4900

REPORTING PROCEDURE SUMMARY

A mandated reporter as defined herein shall immediately report suspected maltreatment to the Minnesota Adult Abuse Reporting Center (the entity designated by the county for receiving reports) or in an emergency situation, to the Bloomington Police Department (i.e. School Liaison Officer). If the School Liaison Officer is not available, police dispatch should be contacted using 911.

Immediate Danger

If you know or suspect that a vulnerable adult is in immediate danger, contact the Minnesota Adult Abuse Reporting Center or the Bloomington Police Department (i.e. School Liaison Officer). If the School Liaison Officer is not available, call police dispatch using 911.

No Immediate Danger

If the vulnerable adult is not in immediate danger and if you suspect maltreatment, call the Minnesota Adult Abuse Reporting Center. The mandated reporter should complete a written report (paper copy or online), even if an oral report was given. The Minnesota Adult Abuse Reporting Center will direct the reporter where to send or submit the written report. The report is to be kept in the Assistant Superintendent's office.

If a mandated reporter is unsure whether or not to make a report, call the Minnesota Adult Abuse Reporting Center.

If a mandated reporter receives a court order or subpoena, they are to contact the Assistant Superintendent for consultation.