

**I. PURPOSE**

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

**II. GENERAL STATEMENT OF POLICY**

- A. The policy of NWSISD is to fully comply with Minn. Stat. Ch. 260E, the Reporting of Maltreatment to Minors Act, requiring school district personnel to report suspected child neglect or physical or sexual abuse.
- B. It shall be a violation of this policy for any NWSISD personnel to fail to immediately report instances of child neglect, or physical or sexual abuse when the NWSISD personnel 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. “Accidental” means a sudden, not reasonably foreseeable, and unexpected occurrence or event that:
  - 1. is not likely to occur and could not have been prevented by exercise of due care; and
  - 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 18 and, for purposes of Minn. Stat. Ch. 260C (Juvenile Safety and Placement) 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 Reporters” means any NWSISD personnel who knows or has reason to believe a child is being neglected or physically or sexually abused within the preceding three years.
- E. “Mental Injury” means an injury to the psychological capacity or emotional stability of a child as evidenced by a 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. “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 care, medical care, 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 as the child’s age, mental ability, physical condition, length of absence, or environment, when the child is unable to care for their 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 as defined in state law 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 Minn. Stat. § 260C.007, Subd. 4-6, Clause (5);
7. chronic and severe use of alcohol or a controlled substance by a 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 that 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 occur solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child in lieu of medical care.

- G. "Nonmaltreatment mistake" occurs when: (1) at the time of the incident, the individual was performing duties identified in the center's child care 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 nonmaltreatment 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 (5) except for the period when the incident occurred, the facility and the individual providing services were both in compliance with all licensing requirements relevant to the incident. This definition only applies to childcare centers licensed under Minn. Rules Ch. 9503.
- H. "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, 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 employee or agent, 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.
- I. "Physical abuse" means any physical injury, mental injury (under subdivision 13), or threatened injury (under subdivision 23), 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 Minn. Stat. § 125A.0942 or § 245.825.  
 Abuse does not include reasonable and moderate physical discipline of a child administered by a parent or legal guardian that 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. Stat. § 121A.582.  
 Actions that 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 that 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,

Subd. 6; (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 that were not prescribed for the child by a practitioner, in order to control or punish the child, or other substances that substantially affect the child's behavior, motor coordination, or judgment, or that result in sickness or internal injury, or that 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.

- J. "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.
- K. "NWSISD Personnel" means professional employees or professional's delegate of NWSISD who provides health, educational, social, psychological, law enforcement or childcare services.
- L. "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 current or recent position of authority (as defined in Minn. Stat. § 609.341, Subd. 10) to any act which constitutes a violation of Minnesota statutes prohibiting criminal sexual conduct. Such acts include sexual penetration, sexual contact solicitation of children to engage in sexual conduct, and communication of sexually explicit materials to children. Sexual abuse also includes any act involving a minor that 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 threatened sexual abuse that 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).
- M. "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 subjected the child to, or failed to protect a child from, egregious harm, or a person whose parental rights were involuntarily terminated, been found palpably unfit, or one from whom legal and physical custody of a child has been involuntarily transferred to another.

#### **IV. REPORTING PROCEDURES**

- A. A mandated reporter shall immediately report the information to the local welfare agency, police department or county sheriff tribal social services, or tribal police department. The reporter will include his or her name and address in the report.
- 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, or agency responsible for assessing the report. Any report shall be of sufficient content to 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 maltreatment and the name and address of the reporter.
- C. 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, legal guardian, or custodian of the child that an

incident has occurred that may constitute maltreatment of the child, when the incident occurred, and the nature of the conduct that may constitute maltreatment.

- D. A mandated reporter who knows or has reason to know of the deprivation of custodial or parental rights or the kidnapping of a child shall report the information to the local police department or the county sheriff.
- E. A person mandated by Minnesota law and this policy to report child maltreatment fails to report the maltreatment may be subject to criminal penalties and/or discipline, up to and including termination of employment.
- F. 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, or NWSISD programs or activities.
- G. 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, plus costs and reasonable attorney fees. Knowingly or recklessly making a false report also may result in discipline.

***[Note: The Minnesota Department of Education (MDE) is responsible for assessing or investigating allegations of child maltreatment in schools. Although a report may be made to any of the agencies listed in Section IV. A., above, and there is no requirement to file more than one report, if the initial report is not made to MDE, it would be helpful to MDE if schools also report to MDE.]***

## **V. INVESTIGATION**

- A. The responsibility for assessing or investigating reports of suspected maltreatment rests with the appropriate county, state or local agency or agencies. The investigating agency may interview the child at school, including a NWSISD program site. The interview may take place outside the presence of a school official. The investigating agency, not NWSISD, is responsible for either notifying or withholding notification of the interview to the parent, guardian or person responsible for the child's care. NWSISD personnel 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 at a program site, written notification of intent to interview the child at the program site will be received by NWSISD personnel 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 NWSISD controlled property.
- C. Except where the alleged offender is believed to be a NWSISD official or employee, the time and place, and manner of the interview at the NWSISD program site shall be within the discretion of NWSISD 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 NWSISD 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 NWSISD 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 NWSISD employees when an interview is conducted at a NWSISD program site.
- D. Where the alleged offender is believed to be a NWSISD official or employee, NWSISD shall conduct its own investigation independent of MDE and, if involved, the local welfare or law enforcement agency.

- E. Upon request by MDE, NWSISD shall provide all requested data that are relevant to a report of maltreatment and are in NWSISD’s possession, pursuant to an assessment or investigation of a maltreatment report of a student participating in a NWSISD program or activity. NWSISD 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.

**VI. MAINTENANCE OF SCHOOL RECORDS CONCERNING ABUSE OR POTENTIAL ABUSE**

- A. When a local welfare or local law enforcement agency determines that a potentially abused or abused child should be interviewed at a NWSISD program site, written notification of the agency’s intent to interview on NWSISD controlled property must be received by NWSISD 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 the interview. The notification shall be private data. NWSISD officials may not disclose to the parent, legal custodian, or guardian the contents of the notice or any other related information regarding the interview until notified in writing by the local welfare or law enforcement agency that the investigation has been concluded.
- B. All records regarding a report of maltreatment, including any notification of intent to interview which was received by NWSISD as described above in Paragraph A, shall be destroyed by NWSISD only when ordered by the agency conducting the investigation or by a court of competent jurisdiction.

**VII. 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.

**VIII. DISSEMINATION OF POLICY AND TRAINING**

- A. This policy shall appear in school personnel handbooks.
- B. NWSISD 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.582 (Student Discipline; Reasonable Force)  
Minn. Stat. § 121A.67 (Aversive and Deprivation Procedures)  
Minn. Stat. § 125A.09, Subd. 3 (Initial Action; Parent Consent)  
Minn. Stat. § 245.825 (Use of Aversive or Deprivation Procedures)  
Minn. Stat. § 260C.007, Subd. 4, clause (5) (Child in Need of Protection)  
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)

**Cross References:** NWSISD Policy 415 (Mandated Reporting of Maltreatment of Vulnerable Adults)

*Adopted: September 18, 2002*  
*Revised: December 17, 2003*  
*May 18, 2011*  
*November 28, 2018*  
*January 15, 2020*  
*May 19, 2021*  
*June 15, 2022*