MANDATED REPORTING OF MALTREATMENT OF VULNERABLE ADULTS

[Note: This policy reflects the mandatory law regarding reporting maltreatment of vulnerable adults and is not discretionary in nature.]

I. PURPOSE

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

II. GENERAL STATEMENT OF POLICY

A. The policy of the school district is to comply fully with Minnesota Statutes section § 626.557 requiring school personnel to report suspected maltreatment of vulnerable adults.

B. A violation of this policy occurs when any school personnel fails to report suspected maltreatment of vulnerable adults when the school personnel has reason to believe that a vulnerable adult is being or has been maltreated, or has knowledge that a vulnerable adult has sustained a physical injury which is not reasonably explained.

III. DEFINITIONS

A. “Abuse” means:

1. 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 Minnesota Statutes sections 609.221 to 609.224; (2) the use of drugs to injure or facilitate crime as defined in Minnesota Statutes section 609.235; (3) the solicitation, inducement, and promotion of prostitution as defined in Minnesota Statutes section 609.322; and (4) criminal sexual conduct in the first through fifth degrees as defined in Minnesota Statutes 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.

2. Conduct which is not an accident or therapeutic conduct as defined in Minnesota Statutes section 626.5572 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 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 Minnesota Statutes section 245.825.

3. Any sexual contact or penetration as defined in Minn. Stat. 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.

4. 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 Minnesota Statutes
 section 626.5572, Subd. 2.

B. “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.

C. “Common entry point” means the entity responsible for receiving reports of alleged
 or suspected maltreatment of a vulnerable adult and designated by the
 Commissioner of the Minnesota Department of Human Services as the MN Adult
 Abuse Reporting Center (MAARC).

D. “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.

E. “Immediately” means as soon as possible, but no longer than 24 hours from the time
 initial knowledge that the incident occurred has been received.

F. “Mandated reporters” means a professional or professional’s delegate while
engaged in education.

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

H. “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.

I. Neglect also means 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.

J. “School Personnel” means professional employees or their delegates of the school district engaged in providing health, educational, social, psychological, law enforcement, or other caretaking services of vulnerable adults.

K. “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 whether any type of service is received, possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction that impairs the individual’s ability to provide adequately for the individual’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.

IV. REPORTING PROCEDURES

A. A mandated reporter as defined herein shall immediately report the suspected maltreatment to the common entry point responsible for receiving reports.

B. Whenever a mandated reporter, as defined herein, 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 neglect and why the error does not constitute neglect.
C. The report 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 Minnesota Statutes section § 13.02, to the extent necessary to comply with the above reporting requirements.

D. A person mandated to report suspected maltreatment of a vulnerable adult who negligently or intentionally fails to report is liable for damages caused by the failure. A negligent or intentional failure to report may result in discipline. A mandatory reporter who intentionally fails to make a report, who knowingly provides false or misleading information in reporting, or who intentionally fails to provide all the material circumstances surrounding the reported incident may be guilty of a misdemeanor.

E. Retaliation against a person who makes a good faith report under Minnesota law and this policy, or against vulnerable adult who is named in a report is prohibited.

F. 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. The intentional making of a false report may result in discipline.

V. INVESTIGATION

The responsibility for investigating reports of suspected maltreatment of a vulnerable adult rests with the entity designated by the county for receiving reports.

VI. DISSEMINATION OF POLICY AND TRAINING

A. This policy should appear in school personnel handbooks as appropriate.

B. The school district will develop a method of discussing this policy with employees as appropriate.

C. This policy should be reviewed at least annually for compliance with state law.

Legal References: Minn. Stat. § 13.02 (Government Data Practices; Definitions)
Minn. Stat. Ch. 245A (Human Services Licensing)
Minn. Stat. § 245.825 (Aversive and Deprivation Procedures; Licensed Facilities and Services)
Minn. Stat. §§ 609.221-609.224 (Assault)
Minn. Stat. § 609.232 (Crimes Against Vulnerable Adults; Definitions)
Minn. Stat. § 609.235 (Use of Drugs to Injure or Facilitate Crime)
Minn. Stat. § 609.322 (Solicitation, Inducement, and Promotion of
Prostitution; Sex Trafficking)
Minn. Stat. § 609.341 (Definitions)
Minn. Stat. §§ 609.342-609.3451 (Criminal Sexual Conduct)
Minn. Stat. § 626.557 (Reporting of Maltreatment of Vulnerable Adults)
Minn. Stat. § 626.5572 (Definitions)
In re Kleven, 736 N.W.2d 707 (Minn. App. 2007)

Cross References: MSBA/MASA Board Policy 103 (Complaints – Students, Employees, Parents, Other Persons)
MSBA/MASA Board Policy 211 (Criminal or Civil Action Against School District, School Board Member, Employee, or Student)
MSBA/MASA Board Policy 403 (Discipline, Suspension, and Dismissal of School District Employees)
MSBA/MASA Board Policy 406 (Public and Private Personnel Data)
MSBA/MASA Board Policy 414 (Mandated Reporting of Child Neglect or Physical or Sexual Abuse)
MSBA/MASA Model Policy 515 (Protection and Privacy of Pupil Records)

BOARD POLICY 415
St. Cloud Area School District 742
St. Cloud, Minnesota

Adopted: October 10, 2001
Revised: November 9, 2016
Reviewed/No Change: February 2019
Reviewed/No Change: September 2020
Reviewed/No Change: January 2022
Revised: ____________, 2022