

Nerstrand Elementary School Policy 414 Draft
Independent Charter School District #4055
Adopted: 12/09/2002

414 MANDATED REPORTING OF CHILD NEGLECT OR PHYSICAL OR SEXUAL ABUSE

[Note: This policy reflects the mandatory law regarding reporting of maltreatment of minors 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 child neglect or physical or sexual abuse.

II. GENERAL STATEMENT OF POLICY

A. It is the policy of Nerstrand School to fully comply with Minn. Stat. § 626.556 requiring school personnel to report suspected child neglect or physical or sexual abuse.

B. It shall be a violation of this policy for any school personnel to fail to immediately report instances of child neglect, or physical or sexual abuse when the school 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. "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 school personnel 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.

D. "Neglect" means failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter, health, or medical or other care required for the child's physical or mental health 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; failure to provide for necessary supervision or child care arrangements appropriate for a child (considering factors such as the child's age, mental ability, and physical condition, the length of the absence, the environment, whether 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); or failure to ensure that a child is educated in accordance with state law. Neglect also includes 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 or 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 stage 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 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 injury, 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.) Abuse does not include reasonable and moderate physical discipline of a child administered by a parent or legal guardian, not resulting in an injury. 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 non-accidental 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 Section 609.09, subdivision 6 of Minnesota Statutes; (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; or (9) unreasonable physical confinement or restraint not permitted under Section 609.379 of Minnesota Statutes including, but not limited to, tying, caging, or chaining.

F. "School Personnel" means professional employee or professional's delegate of the school district who provides health, educational, social, psychological, law enforcement or child care services.

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 constituting 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 school official. The investigating agency, not the school, is responsible for either notifying or withholding notification of the interview to the parent, guardian or person responsible for the child's care. School officials 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 an interview should take place on school property, written notification of intent to interview the child on school property will be received by school 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 an interview on school property.

C. Except where the alleged perpetrator is believed to be a school official or employee, the time and place, and manner of the interview on school premises shall be within the discretion of school officials, but local welfare or law enforcement agencies shall have exclusive authority to determine who may attend the interview. The conditions as to time, place, and manner of the interview set by the school 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 the school officials and local welfare or law enforcement agencies. Every effort must be made to reduce the disruption of the educational program of the child, other students, or school employees when an interview is conducted on school premises.

D. Where the alleged perpetrator is believed to be a school official or employee, Nerstrand School shall also conduct its own investigation independent of the local welfare or law enforcement agency.

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 on school property, written notification of the agency's intent to interview on school property must be received by school 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. School 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 the school as described above in Paragraph A, shall be destroyed by the school 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. The school district 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.