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## 114 MANDATED REPORTING OF CHILD MALTREATMENT

### I. PURPOSE

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

### II. GENERAL STATEMENT OF POLICY

- A. It is the policy Kato Public Charter School to fully comply with Minn. Stat. § 626.556, which requires school personnel to report suspected child neglect or physical and/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 and/or sexual abuse when the school personnel knows or has reason to believe a child is being neglected or physically and/or sexually abused or has been neglected or physically and/or sexually abused within the preceding three years.

### III. DEFINITIONS

- A. "Child" means a student 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 and/or sexually abused, or has been neglected or physically and/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 or medical care 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, or failure to take steps to ensure that a child is educated in accordance with state law. 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 or 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.).
- F. "School Personnel" means professional employee of Kato Public Charter School.

- 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 that 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 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 and/or sexual abuse or mental injury.)

#### IV. REPORTING PROCEDURES

- A. A mandated reporter as defined in this policy shall immediately report the neglect or physical and/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 and/or sexually abused within the preceding three years, and fails to report is guilty of a misdemeanor. Such a failure to report may result in disciplinary action.
- 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 disciplinary action. The court may also award attorney's fees to the person or persons named in the false report.

#### V. INVESTIGATION

- A. The responsibility for investigating reports of suspected neglect or physical and/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 that an interview should take place on school property, school officials must receive written notification of the intent to interview the child on school property 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 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 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 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 school employees when an interview is conducted on school premises.
- D. In situations where the alleged perpetrator is believed to be a school official or employee, Kato Public Charter School shall 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. Kato Public Charter 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 is responsible for any disclosures.
- B. Records maintained or derived from abuse or neglect reports from Kato Public Charter School shall be destroyed as follows:
  - 1. If upon completion of an investigation for abuse there is no determination of maltreatment or the need for child protective services, the records must be maintained for a period of four (4) years. The records may not be used for employment, background checks, or purposes other than to assist in future risk and safety assessments.
  - 2. All records relating to reports which, upon investigation indicate either maltreatment or a need for child protective services, shall be maintained for at least ten (10) years after the date of the final entry in the case record.
  - 3. 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 VI.A., shall be destroyed by the school when ordered to do so by the agency conducting the investigation.

**VII. PHYSICAL AND/OR SEXUAL ABUSE AS SEXUAL HARASSMENT OR VIOLENCE**

Under certain circumstances, alleged physical and/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.

***Legal References:***

Minn. Stat. § 626.556 et seq. (Reporting of maltreatment of minors)

***Cross References:***