

Adopted: September 16, 2010

Revised: February 26, 2014

## **BLUESKY CHARTER SCHOOL POLICY No. 4.7.1 MALTREATMENT OF MINORS / MANDATORY REPORTING**

### **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. POLICY STATEMENT**

- A. The policy of BlueSky Charter School is 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. “Accidental” means a sudden, not reasonably foreseeable, and unexpected occurrence or event which:
  - 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 age 18.
- C. “Immediately” means as soon as possible but in no event longer than 24 hours.
- D. “Mandated reporter” 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.

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- E. "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, medical, or other care required for 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;
  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;
  3. Failure to provide for necessary supervision or child care arrangements appropriate for a child after considering factors such as the child's age, mental ability, physical condition, length of absence, or environment, when 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;
  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 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;
  6. Medical neglect as defined by Minn. Stat. §260C.007, subd. 4, clause (5);
  7. 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
  8. 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.
  9. 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 and depended on those means for treatment or care of disease, except where the lack of medical care may cause serious danger to the child's health.

- F. “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 or any aversive or deprivation procedures, or regulated interventions, that have not been authorized by Minn. Stat. §121A.67 (“Aversive and Deprivation Procedures”).
1. Abuse does not include reasonable and moderate physical discipline of a child administered by a parent or legal guardian which 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 (“Student Discipline; Reasonable Force”).
  2. 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:
    - a. Throwing, kicking, burning, biting, or cutting a child;
    - b. Striking a child with a closed fist;
    - c. Shaking a child under age three;
    - d. Striking or other actions which result in any non-accidental injury to a child under 18 months of age;
    - e. Unreasonable interference with a child’s breathing;
    - f. Threatening a child with a weapon, as defined in Minn. Stat. §609.02, subd. 6;
    - g. Striking a child under age one on the face or head;
    - h. 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;
    - i. Unreasonable physical confinement or restraint not permitted under Minn. Stat. §609.379 including, but not limited to, tying, caging, or chaining; or

- j. 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 (Minnesota's Corporal Punishment Law).
- G. "School personnel" means professional employee or professional's delegate of BlueSky Charter School who provides health, educational, social, psychological, law enforcement, or child care services.
- H. "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 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 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.
- I. "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.
- J. "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 employees or agents, 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.
- K. "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 person mandated to report under this policy shall immediately report the neglect or physical or sexual abuse, which he or she knows or has reason to believe is happening

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or has happened within the preceding three years to the local welfare agency, police department, county sheriff, or agency responsible for assisting or investigating maltreatment.

1. Alleged abuse or neglect that occurred outside of a public school facility should be reported to the local welfare agency, police department or county sheriff.
  2. Alleged abuse or neglect that occurred in a public school facility or at a school activity should be reported to the Minnesota Department of Education (“MDE”). Reports may be made to MDE 24 hours per day by calling (651) 582-8546.
- 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, local welfare agency, or agency responsible for assisting or investigating maltreatment. The written report should 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 to report under this policy who knows or has reason to know of the deprivation of parental rights or the kidnapping of a child shall immediately report the information to the local police department or the county sheriff.
- D. A person mandated by Minnesota law and this policy to report who fails to report may be subject to criminal penalties and/or discipline, up to and including termination of employment.
- E. 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.

## **V. INVESTIGATION**

- A. Responsibility. The responsibility for investigating reports of suspected neglect or physical or sexual abuse rests with the appropriate county, state, or local agency or agencies.
- B. Interviews. The agency responsible for assessing or investigating reports of child maltreatment may interview the child at school. The interview may take place outside the presence of a BlueSky Charter School official. When the investigating agency determines that an interview should take place on school property, the Executive Director shall ensure that written notification of intent to interview the child on school property has been received 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. Disclosure of information. The investigating agency, not BlueSky Charter School, is responsible for either notifying or withholding notification of the interview to the parent, guardian or person responsible for the child's care. BlueSky Charter School officials may not provide 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.
  - D. Scheduling. 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 officials at BlueSky Charter School, 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 BlueSky Charter 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 BlueSky Charter 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.
  - E. Investigations of school personnel suspected of maltreatment. Where the alleged perpetrator is believed to be a school official or employee, officials of BlueSky Charter School may conduct an internal investigation independent of MDE and, if involved, the local welfare or law enforcement agency. The Executive Director may choose to delay this investigation or chose not to conduct it if to do so would impede the agencies' investigation or if the agencies make a determination that is available to BlueSky Charter School.
  - F. Data disclosures to MDE. Upon request by MDE, the Executive Director shall provide all requested data that are relevant to a report of maltreatment and are in the possession of a the school, pursuant to an assessment or investigation of a maltreatment report of a student in school. The Executive Director 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**

All records regarding a report of maltreatment, including any notification of intent to interview which was received by the school as described above shall be destroyed by BlueSky Charter 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 Executive Director 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.58 (Corporal Punishment)  
Minn. Stat. §121A.582 (Student Discipline; Reasonable Force)  
Minn. Stat. §121A.67 (Aversive and Deprivation Procedures)  
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)  
Minn. Stat. §626.556 et seq. (Reporting of Maltreatment of Minors)  
20 U.S.C. §1232g (Family Educational Rights and Privacy Act)

**Resources:** Minnesota Department of Education Confidential Reporting Form,  
Available at:  
[www.education.state.mn.us/MDE/SchSup/StuMaltr/Index.html](http://www.education.state.mn.us/MDE/SchSup/StuMaltr/Index.html)