



5635 B

Definitions: Maltreatment of Minors or Vulnerable Adults

Regulation 5635 B

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I. PURPOSE

The purpose of this regulation is to provide definitions of terms used in Policy 5635, Reporting Maltreatment of Minors or Vulnerable Adults, and the regulations implementing that policy.

II. DEFINITIONS REGARDING MALTREATMENT OF A MINOR

The alphabetic listing of definitions of terms used in Policy 5635 related to maltreatment of a minor.

- A. “Child” means one under age eighteen (18) and for purposes of child protection requirements, includes an individual under age twenty-one (21) who is in foster care.
- B. “Other personnel of the District” means any delegate of the school district, including independent contractors, volunteers and visitors, who provides any of the following services to the child:
 - 1. health services
 - 2. education
 - 3. social services
 - 4. psychological services
 - 5. law enforcement
 - 6. child care services
- C. “Immediately” means as soon as possible but in no event longer than twenty-four (24) hours.
- D. “Maltreatment” means any of the following alone, or together:
 - a. neglect;
 - b. abuse of a physical or sexual nature;
 - c. mental injury;
 - d. threatened injury.
- E. “Mandated reporter” means any employee or other personnel of the District who knows or has reason to believe a child is being neglected, physically abused or physically abused within the preceding three years.
- F. “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.



G. "Neglect"

1. means:

- a. failure by a person responsible for a child's care to supply a child with the necessary items that follow when reasonably able to do so:
 - (1) food
 - (2) clothing
 - (3) shelter
 - (4) health services
 - (5) medical care
 - (6) other care required for the child's physical or mental health including growth delay, or a failure to thrive that has been diagnosed by a physician and is due to parental neglect.
- b. 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;
- c. failure to provide for the appropriate supervision or child care arrangements when reasonably able to do so taking into consideration the child's:
 - (1) age
 - (2) mental ability
 - (3) physical condition
 - (4) length of absence of the person responsible for the child
 - (5) environment
 - (6) ability of the child to care for his or her own basic needs or safety
 - (7) ability of the child to care for the basic needs and safety of another child in her or his care.
- d. failure to ensure that a child is educated in accordance with state law;
 - (1) this does not include the parent's refusal to provide the child with sympathomimetic medications;
- e. prenatal exposure to a controlled substance used by the mother for a nonmedical purpose, when exposure is evidenced by
 - (1) withdrawal symptoms in the child at birth;
 - (2) results of a toxicology test performed on the mother at delivery or the child's birth;
 - (3) medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance;
 - (4) presence of fetal alcohol spectrum disorder.
- f. medical neglect as defined by Minnesota Statutes.



- g. 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 or safety; or
- h. emotional harm from a pattern of behavior which contributes to impaired emotional functioning of the child which may be demonstrated by:
 - i. a substantial and observable effect in the child's behavior;
 - j. emotional response
 - k. cognition that is not within the normal range for the child's age and stage of development, with due regard for the child's culture.
- 2. does *not* mean
 - a. using 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.
 - b. refusing to provide a child with sympathomimetic medications.
- 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 child, including but not limited to:
 - a. teacher
 - b. school administrator
 - c. school employees or agents
 - d. day care provider
 - e. babysitter, whether paid or unpaid,
 - f. counselor
 - g. coach
- I. "Physical abuse"
 - 1. means
 - a. any of the injuries listed in Paragraph II.F.1.b upon a child by person responsible for a child's care where
 - (1) the means are other than accidental or
 - (2) cannot be explained by the child's history of injuries, or
 - (3) the means are any aversive or deprivation procedures or regulated interventions that have not been authorized by the Minnesota statute relating to permissible aversion and deprivation procedures in schools.
 - b. injuries that are
 - (1) physical, including but not limited to the following actions:
 - (a) throwing, kicking, burning, biting or cutting;
 - (b) striking 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 (1) on the face or head;
 - (h) striking a child who is at least age one (1) but under age four (4) on the face or head which results in an injury;
 - (i) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled substances that are not prescribed for the child by a health practitioner, in order to punish or control the child;
 - (j) giving the child other substances that substantially affect the child's behavior, motor coordination or judgment;
 - (k) giving the child substances 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 substance(s)
 - (l) unreasonable physical confinement or restraint not permitted by Minn. Stat. § 609.379, including, but not limited to:
 - i. tying
 - ii. caging
 - iii. chaining
 - (m) while in a school or in a school zone, using corporal punishment as defined by Minn. Stat. § 121A.58,
 - (2) mental, or
 - (3) threatened.
2. does *not* mean:
- a. reasonable and moderate physical discipline of a child administered by a parent or legal guardian which does not result in an injury, or
 - b. reasonable force by a teacher, principal or school employee as allowed in Minnesota Statutes related to correcting or restraining a student, and to use reasonable force to prevent bodily harm or death of another.
- J. "Sexual abuse" means
- 1. the subjection of a child to any act which constitutes a violation of Minnesota statutes prohibiting criminal sexual conduct by
 - a. a person responsible for the child's care
 - b. a person who has a significant relationship to the child (as defined by Minnesota Statutes § 609.341, Subd.15)
 - c. a person in a position of authority (as defined by Minn. Stat. § 609.341, Subd. 10)
 - 2. sexual contact;
 - 3. sexual penetration;
 - 4. any act involving a minor in prostitution;



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5. known or suspected child sex trafficking as defined in Minn. Stat. § 609.521, Subd. 7a and 7b;
 6. use of a child in a sexual performance;
 7. threatened sexual abuse, which includes the status of parent or household member who is required to register as a predatory offender.
- K. “Threatened injury” means a statement, overt act, condition or status that represents a substantial risk of physical or sexual abuse or mental injury. It includes, but is not limited to:
1. 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;
 2. exposing a child to a person whose parental rights were involuntarily terminated
 3. exposing a child to a person whose parental rights have been found palpably unfit,
 4. exposing a child to a person from whom legal and physical custody has been involuntarily transferred to another.

III. DEFINITIONS REGARDING MALTREATMENT OF A VULNERABLE ADULT

The alphabetic listing of definitions of terms used in Policy 5635 related to maltreatment of a vulnerable adult.

- A. “Abuse” means
1. an act against a vulnerable adult that constitutes a violation of, or an attempt to violate, or aiding and abetting a violation of any of the following whether or not there are criminal proceedings or convictions stemming from the act:
 - a. criminal assault
 - b. the use of drugs to injure or facilitate crime
 - c. the use of drugs to facilitate crime
 - d. the solicitation, inducement or promotion of prostitution
 - e. criminal sexual conduct.
 2. Conduct which is not an accident or therapeutic conduct as defined in this section which produces or could reasonably be expected to produce physical pain or injury or emotional distress including, but not limited to :
 - a. hitting, slapping, kicking, pinching, biting or corporal punishment;
 - b. use of repeated or malicious oral, written or gestured language toward a vulnerable adult
 - c. use of repeated or malicious oral, written or gestured language toward an vulnerable adult that a reasonable person would consider
 - (1) disparaging
 - (2) derogatory
 - (3) humiliating
 - (4) harassing
 - (5) threatening.
 - d. use of any aversive or deprivation procedure against the will of the vulnerable adult or the legal representative of the vulnerable adult;



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- e. use of any confinement or involuntary seclusion against the will of the vulnerable adult or the legal representative of the vulnerable adult;
 - f. forced separation from other persons against the will of the vulnerable adult or the legal representative of the vulnerable adult;
 - g. use of any aversive or deprivation procedures for persons with developmental disabilities or related conditions not authorized under Minnesota law;
 - h. sexual contact or penetration between a facility staff person or a person providing services in the facility and the vulnerable adult;
 - i. the act of forcing, compelling or enticing a vulnerable adult against the vulnerable adult's will to perform services for the advantage of another;
- B. "Accident" means a sudden, unforeseen, and unexpected occurrence or event which:
1. is not likely to occur
 2. could not have been prevented by exercise of due care
 3. if it occurs while a vulnerable adult is receiving services from a facility 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 or event.
- C. "Caregiver" means an individual or facility who has the responsibility for the care of a vulnerable adult due to
1. family relationship, or
 2. contract or agreement to provide for the vulnerable adult.
- D. "Employee" means any professional employee or employee's designate who provides any of the following services to the vulnerable adult on behalf of the District:
1. health services
 2. education
 3. social services
 4. psychological services
 5. law enforcement
 6. child care service
- E. "Financial exploitation" means
1. a breach of fiduciary duty in making unauthorized expenditures of funds entrusted to the individual for the benefit of the vulnerable adult;
 2. failure to provide the services identified in Paragraph III.H.1.b. when such failure results in or is likely to result in detriment to the vulnerable adult;
 3. willful use, withholding or disposal of funds or property of a vulnerable adult;
 4. acquisition of the funds or property of a vulnerable adult through
 - a. undue influence
 - b. duress
 - c. harassment
 - d. deception
 - e. fraud



5. causing a vulnerable adult to perform services against the adult's will for the profit or advantage of another by the use of
 - a. force,
 - b. coercion or
 - c. enticement.

- F. "Immediately" means as soon as possible, but no longer than 24 hours from the time of initial knowledge that an incident occurred has been received.

- G. "Mandated reporter" means any employee or other personnel of the District who has reason to believe that a vulnerable adult is being or has been maltreated.

- H. "Maltreatment" means the following behaviors toward a vulnerable adult:
 1. neglect;
 2. abuse;
 3. financial exploitation.

- I. "Neglect"
 1. means
 - a. a failure or omission by a caregiver to provide any of the care or services identified in Paragraph III.H.1.b, which is or are
 - (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) not the result of an accident or therapeutic conduct.
 - b. services or care
 - (1) food
 - (2) clothing
 - (3) shelter
 - (4) health care
 - (5) supervision
 - c. the absence or likelihood of absence of the care and services described in Paragraph III.H.1.b. which are
 - (1) necessary to maintain the physical and mental health of the vulnerable adult,
 - (2) essential given a reasonable person's estimation considering the physical or mental capacity or dysfunction of the vulnerable adult.
 2. does **not** mean actions specifically excluded by Minn. Stat. § 626.5572, Subd. 17 related to certain health care and lifestyle decisions.

- J. "Other personnel of the District" means any person, including independent contractors, volunteers and visitors, who provides any of the following services to the child on behalf of the District:
 1. health services



2. education
 3. social services
 4. psychological services
 5. law enforcement
 6. child care services
- 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 at or from a licensed facility which serves adults;
 3. receives services at or from a licensed home care provider or
 4. regardless of residence or type of service received due to impairment of the person’s mental or physical function or emotional status:
 - a. is unable to adequately provide the person’s own care
 - b. is unable to adequately provide the person’s own protection from maltreatment.

Legal References:

Minn. Stat. § 626.556 *et seq.* (Reporting of Maltreatment of Minors)

Minn. Stat. § 626.557 *et seq.* (Reporting of Maltreatment of Vulnerable Adults)

Cross References:

MPS Policy 5635 (Reporting Maltreatment of Minors and Vulnerable Adults)

MPS Regulation 5635 A (Procedures: Reporting Maltreatment of Minors and Vulnerable Adults)