Student Maltreatment Program

Division of Compliance and Assistance
Special Education Directors’ Forum
March 6, 2015

Vicky Anderson and Tim Lynch
Senior Investigators, Student Maltreatment Program

Leading for educational excellence and equity.
Every day for every one.

Reporting of Maltreatment of Minors Act

• Codified at Minnesota Statute Section 626.556
• First enacted in 1975
• Initially applied only to children in the home and was enforced by county child protection system

1983: Law Amended to Include Schools

Amended Purpose Statement:

• Protect children whose health and welfare may be jeopardized through physical abuse, neglect and/or sexual abuse.
• Strengthen the family and make the home, school, and community safe for children by promoting responsible child care in all settings.
• Require the reporting of neglect, physical or sexual abuse of children in the home, school and community settings.
1997 Legislative Task Force

- Convened to address various issues related to the Minnesota child protection system, including:
  - How are incidents of alleged maltreatment of children being handled in the school system?
- Finding: No one agency was taking responsibility for alleged incidents of maltreatment in schools.

MDE’s Authority

- **1999:** Gave the Minnesota Department of Education (MDE) authority to investigate reports of alleged maltreatment of students in Minnesota public schools. See Minn. Stat. § 626.556, Subd. 3b.
- **2001:** Additional amendments made to help clarify and facilitate MDE’s investigative process.

MDE’s Jurisdiction

Agency **CAN** investigate allegations involving:
- Elementary Schools
- Middle Schools
- Secondary Schools
- Charter Schools

Agency **CANNOT** investigate allegations involving:
- Parochial schools
- Private schools
- Head Start programs
- Nonschool child care programs
- Before or after school child care programs

See Minn. Stat. § 626.556, Subd. 3(b)
MDE’s Duties

• Screen and investigate reports of alleged maltreatment
• Cross report to and coordinate investigations with law enforcement, as appropriate

MDE is given the “same powers and duties” as local welfare agencies. Minn. Stat. § 626.556, Subd. 10b

• Collect and review data, interview alleged offender(s), alleged victim(s), and witnesses
• Issue final reports

Maltreatment Definitions

• Neglect
• Physical Abuse
• Sexual Abuse
• Mental Injury
• Maltreatment of a child in a facility

Minn. Stat. § 626.556, Subd. 10e(f)

Neglect = Failure by an individual or school, other than by accidental means, to...

• Provide basic necessary care required for a student, when reasonably able to do so.
• Protect a student from conditions or actions that seriously endanger the student’s physical or mental health.
• Provide necessary and appropriate supervision for a student after considering the student’s needs, environment, and ability to care for his/her needs.
Physical Abuse =

Any physical injury, mental injury, or threatened injury inflicted on a child by a person responsible for the child's care, that is caused other than by accidental means. See Minn. Stat. § 626.556, Subd. 2(g).

“Accidental” means a sudden, not reasonably foreseeable, and unexpected occurrence which:

1. is not likely to have occurred and could not have been prevented by exercise of due care,
2. happens when the facility and employee are in compliance with the laws and rules relevant to the occurrence or event.

See Minn. Stat. § 626.556, Subd. 2(p).

Abuse Does Not Include the Use of Reasonable Force

A principal, teacher, or other school employee or agent of a district, in exercising the person’s lawful authority, may use reasonable force when it is necessary under the circumstances to restrain a student or prevent bodily harm or death to another.

Minn. Stat. § 121A.582

Abuse Includes …

Actions which are not reasonable or moderate and if done in anger or without regard to safety of the child.

Including, but not limited to:

- Throwing, kicking, burning, biting, or cutting a child
- Striking a child with a closed fist
- Unreasonable interference with a child's breathing
- Unreasonable physical confinement or restraint
- Corporal punishment that occurs within a public school setting
Corporal Punishment =

• Conduct involving:
  1) Hitting or spanking a person with or without an object; or
  2) Unreasonable physical force that causes bodily harm or substantial emotional harm.

• Corporal punishment cannot be inflicted upon a student to reform or penalize for unacceptable conduct.

  Minn. Stat. § 121A.58

• “Corporal punishment” is unique for MDE and is only assessed under the statute as physical abuse when committed in a school facility or school zone.

  Minn. Stat. § 626.556 Subd. 2(g)(9)

Sexual Abuse =

An act by a person responsible for the student’s care that constitutes criminal sexual conduct, first through fifth degree.

  • Requires sexual intent and physical contact with “intimate parts.”
  • Includes acts involving a minor that constitute prostitution offenses.
  • MDE also has authority to assess reports of “threatened sexual abuse.”

• MDE, law enforcement, and school officials must work together to maintain the integrity of all respective investigations and not jeopardize any potential criminal investigation or prosecution.

  Minn. Stat. § 626.556 Subd. 2(m)

Mental Injury =

An injury to the student's psychological capacity or emotional stability as evidenced by an observable or substantial impairment in the student’s ability to function in a normal range of performance or behavior, given the student’s culture.

  Minn. Stat. § 626.556 Subd. 2(m)
Who Can Be Identified as an Alleged Offender?

Any person with responsibilities for the care of a student can be identified as an alleged offender.

- School Administrators
- Teachers
- Paraprofessionals
- Coaches
- Contracted School Employees (OT, PT, Nurse)
- Transportation Directors
- Bus Drivers/ Bus Aides

Mandatory Reporting

- “A person 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, shall immediately report the information...”

See Minn. Stat. § 626.556, Subd. 3(a).

- A teacher’s reporting to the principal is NOT sufficient; MOMA requires that reports be made directly to law enforcement and/or MDE by the person who “has reason to believe…”, not by his/her supervisor.

How to Report

- **Call** MDE’s Student Maltreatment Reporting Hotline: (651) 582-8546
  - NOTE: You must submit a written report to MDE within 72 hours after making a verbal report to MDE.
- **Fax** reporting form to MDE: (651) 797-1601
- **Email** to: mde.student-maltreatment@state.mn.us
MDE's Process

- Intake Process
- Investigative Process
- Determination Process

Intake Process (1)

- Assess all intakes received via phone, email, facsimile, post mail, and in person.
- Collect sufficient data to determine whether a report should be opened for further investigation, including:
  1. identity of student;
  2. person allegedly responsible for abuse/neglect (if known);
  3. nature and extent of the abuse and neglect;
  4. name and address of the reporter.

Intake Process (2)

- Notify law enforcement of report as required by law.
- Notify reporters and parents of MDE's actions within 10 days of receipt of the report.
Investigative Process

- Interview alleged victims, witnesses, and alleged offenders in accordance with statutory guidelines.
- Collect and review all relevant data including but not limited to:
  - school district investigative reports
  - incident reports
  - Individual Education Program (IEP)
  - written statements
  - police reports
  - medical reports
  - photographs
  - video recordings
- Compare investigative data with statutory definitions of maltreatment.

Determination Process

MDE must determine:

1. Whether maltreatment occurred;
2. If maltreatment occurred, whether an individual, the facility, or both are responsible for the maltreatment of the student; and
3. What corrective or protective action was taken by the school facility, if any.

Once MDE makes a determination, it issues final determination reports and notifies appropriate parties.

Program Data

- MDE receives more than 700 reports each school year.
- Approximately 200 cases are assigned each year for investigation of alleged maltreatment.
- MDE determines maltreatment in approximately 25% of the cases.
- The leading allegation and determination of abuse by MDE involves physical abuse.
- More than 60% of MDE’s investigations involve students with a disability.
Questions?

Thank you for the opportunity to share with you today.

MDE Student Maltreatment Program
651-582-8546