

**Spearfish School District 40-2
4000 Personnel**

Board Policy

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REPORTING CHILD ABUSE

Any person who has contact with a child through the performance of services in this District as a teacher, school nurse, school counselor, school official or administrator, or other school employee who has reasonable cause to suspect that a child under 18 years of age has been abused or neglected (including sexual or emotional abuse – see definition in SDCL 26-8A-2 below) by a parent or other person, will report orally or in writing this information to the building principal or Superintendent. The principal or Superintendent should immediately report this information to the state's attorney; or the department of social services; or the county sheriff; or the city police. If the principal or Superintendent does not confirm to the teacher or other employee within 24 hours that action has been initiated, the employee will report this information directly to the proper authorities.

"Reasonable cause" exists where the facts and circumstances within the employee's knowledge, and of which he or she has reasonably trustworthy information, are sufficient in themselves to warrant a belief by a person of reasonable caution that a child has been abused or neglected. The terms "**teacher**," "**school nurse**," "**school counselor**", "**school official**," "**administrator**," "**school principal**," and "**school superintendent**" apply to any person substantially performing the respective duties of any such position in this District.

The report will contain the following information: name, address, date and place of birth of the child; the name and address of parents, guardian, custodian or responsible persons; date of the report; and the suspected or proven instances of child abuse or neglect as defined in SDCL 26-8A-2 below.

School employees, including administrators, will not contact the child's family or any other persons to determine the cause of the suspected abuse or neglect. It is not the responsibility of the school employees to prove that the child has been abused or neglected, or to determine whether the child is in need of protection, but only to report suspicions of abuse or neglect if the person knows or has reason to suspect that a child has been abused or neglected.

Anyone who participates in making a report in accordance with the law and in good faith is immune from any civil or criminal liability that may otherwise arise from the reporting, or from any resulting judicial proceeding, even if the suspicion is proved to be unfounded.

Any personal interview or physical inspection of the child should be conducted in a considerate, professional manner. Information or records concerning reports of suspected abuse or neglect are confidential. The release to persons other than those provided by law is a class one misdemeanor. Failure to make a report of abuse or neglect is a class one misdemeanor.

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Copies of this policy will be distributed by the Superintendent to all school employees at the beginning of each school term, and to new employees when they begin employment if at a different time than the beginning of the school term.

The definition of an abused or neglected child is found in the following statute:

26-8A-2. Abused or neglected child defined. In this chapter and chapter 26-7A, the term, abused or neglected child, means a child:

- (1) Whose parent, guardian, or custodian has abandoned the child or has subjected the child to mistreatment or abuse;
- (2) Who lacks proper parental care through the actions or omissions of the child's parent, guardian, or custodian;
- (3) Whose environment is injurious to the child's welfare;
- (4) Whose parent, guardian, or custodian fails or refuses to provide proper or necessary subsistence, supervision, education, medical care, or any other care necessary for the child's health, guidance, or well-being;
- (5) Who is homeless, without proper care, or not domiciled with the child's parent, guardian, or custodian through no fault of the child's parent, guardian, or custodian;
- (6) Who is threatened with substantial harm;
- (7) Who has sustained emotional harm or mental injury as indicated by an injury to the child's intellectual or psychological capacity evidenced by an observable and substantial impairment in the child's ability to function within the child's normal range of performance and behavior, with due regard to the child's culture;
- (8) Who is subject to sexual abuse, sexual molestation, or sexual exploitation by the child's parent, guardian, custodian, or any other person responsible for the child's care;
- (9) Who was subject to prenatal exposure to abusive use of alcohol, marijuana, or any controlled drug or substance not lawfully prescribed by a practitioner as authorized by chapters 22-42 and 34-20B; or
- (10) Whose parent, guardian, or custodian knowingly exposes the child to an environment that is being used for the manufacture, use, or distribution of methamphetamines or any other unlawfully manufactured controlled drug or substance.

Legal References: SDCL Ch. 26-8A; *Hughes v. Stanley County School Board*, 594 N.W.2d 346 (S.D. 1999)

Adopted February 13, 2012