

9560.0220 RESPONSE TO REPORTS OF MALTREATMENT WITHIN THE FAMILY UNIT.

Subpart 1. **Basic procedures.** The local agency shall follow the basic requirements in part 9560.0216 when a report alleges maltreatment by a person within the family unit who is responsible for the child's care. The local agency shall also collect available and relevant information to determine whether maltreatment occurred and whether protective services are needed as specified in Minnesota Statutes, section 626.556, subdivision 10, paragraph (h). Relevant information includes information on the existence of substance abuse and domestic violence as specified in Minnesota Statutes, section 626.556, subdivision 10, paragraph (a).

Subp. 2. **Coordination with law enforcement.** The local agency shall:

A. ask a representative from a law enforcement agency to accompany the child protection worker to interview the child when a report of maltreatment:

(1) indicates there is imminent danger to a child or danger to the child protection worker; or

(2) alleges violation of a criminal statute involving sexual abuse, physical abuse, malicious punishment of a child, or neglect or endangerment under Minnesota Statutes, section 609.378;

B. coordinate its assessment or investigation with the law enforcement agency's investigation to avoid duplication of fact finding efforts and multiple interviews; and

C. prepare an independent report of its assessment or investigation.

Subp. 3. **Child interviews.** For family assessments, it is the preferred practice to request a parent or guardian's permission to interview the child prior to conducting the child interview, unless doing so would compromise the safety assessment. When a local agency and a law enforcement agency that coordinate assessments and investigations jointly determine that an interview by one person with the child who is reported to be maltreated is in the best interests of the child, and the interview is conducted by the law enforcement agency, the interview can be substituted for the procedures in items A to F.

When necessary to make the determinations in subpart 6, the local agency shall interview any other minors within the family unit. When interviewing children, the local agency shall follow the procedures in items A to F.

A. The local agency shall interview the child in a face-to-face meeting in a manner appropriate to the child's age, development, and ability to understand and verbalize. The agency shall use a question-and-answer interviewing format with questioning as nondirective as possible to elicit spontaneous responses. A face-to-face observation of

the child is required immediately for reports alleging substantial child endangerment and within five calendar days for all other reports.

B. The local agency may waive the notice required in part 9560.0216, subpart 7, when interviewing a child under ten years of age who is reported to be maltreated.

C. The local agency may interview a child under this part without parental consent. By the time the assessment or investigation is completed, the local agency shall notify the parent, legal custodian, or guardian that the interview has occurred unless ordered by the juvenile court to withhold notification.

D. If a parent, legal custodian, or guardian prevents the local agency from interviewing a child, the local agency shall ask the county attorney to obtain a judicial order to produce the child for an interview.

E. For investigations only the local agency shall make a record of every interview according to subitems (1) and (2):

(1) interviews must be audiotaped whenever possible and, in cases of alleged sexual abuse, interviews with alleged victims and child witnesses must be audio-videotaped; and

(2) the record must include:

(a) the date, time, place, and duration of the interview;

(b) the identity of the persons present at the interview; and

(c) a written summary completed within 72 hours if the interview is recorded in writing.

F. When a child is interviewed at the child's school, the local agency shall:

(1) before the interview, give the school a written notice, signed by the chair of the county board or the chair's designee, that includes the following:

(a) the name of the child to be interviewed;

(b) the purpose of the interview; and

(c) the authority of the local agency under Minnesota Statutes, section 626.556, subdivision 10, to interview the child on school premises;

(2) conduct the interview within 24 hours after the school receives the notification in subitem (1);

(3) determine the persons present during the interview; and

(4) cooperate with the school officials' reasonable conditions as to the time, place, and manner of the interview.

Subp. 4. **Parent interviews.** The local agency shall interview parents and persons responsible for the child's care within the family unit. The agency must use a question-and-answer interviewing format with questioning as nondirective as possible to elicit spontaneous responses. These interviews must take place immediately if substantial child endangerment is alleged and within five calendar days for all other reports unless postponement is necessary to prevent risk to a child or interference with law enforcement's investigation. If, after reasonable effort, the local agency is unable to locate a parent, this requirement is waived. All interviews with witnesses and collateral sources must be audiotaped when conducting investigations whenever possible.

Subp. 4a. **Interview of alleged offender.** In the initial stages of an assessment or investigation, the agency must conduct a face-to-face interview of the alleged offender. The interview with the alleged offender may be postponed if it jeopardizes an active law enforcement investigation. The agency must use a question-and-answer interviewing format with questioning as nondirective as possible to elicit spontaneous responses. The local agency must provide the alleged offender with an opportunity to make a statement. The alleged offender may submit supporting documentation relevant to the assessment or investigation. The interviews must be audiotaped when conducting an investigation whenever possible.

Subp. 5. **Other interviews.** When necessary to make the determinations in subpart 6, the local agency shall interview other persons whom the agency believes may have knowledge of the alleged maltreatment. The agency must use a question-and-answer interviewing format with questioning as nondirective as possible to elicit spontaneous responses. All interviews with witnesses and collateral sources must be audiotaped whenever possible.

Subp. 6. **Local agency determinations.** When the local agency has completed its investigation under subparts 1 to 5, the local agency shall make determinations.

A. The local agency shall make a determination that maltreatment has occurred if:

(1) there is a preponderance of evidence that a child is a victim of maltreatment; and

(2) the maltreatment was caused by the act or failure to act of a person within the family unit who is responsible for the child's care.

B. [Repealed, L 2005 c 159 art 1 s 15]

Subp. 6a. **Early determination of maltreatment allegations.** If the collected information shows no basis for a full assessment or investigation, the local agency may make a determination of no maltreatment early in an assessment, close the case, and retain immunity.

Subp. 7. **Determining the need for protective intervention.** The local agency shall determine the need for protective intervention according to items A to C.

A. If there is a determination that child protective services are needed, regardless of whether there is a determination that maltreatment occurred, the local agency shall provide protective intervention under subpart 8.

B. If there is a determination that maltreatment occurred and a determination that no child is in need of child protective services, the local agency shall offer any needed alternative services.

C. If there is no determination that maltreatment occurred and no determination that child protective services are needed, the local agency shall not provide protective services.

Subp. 8. **Protective intervention procedure.** When the local agency provides protective intervention, the local agency shall:

A. evaluate the risks to all children in the home;

B. provide for the protection of the child under subitems (1) to (3), which are listed in order of preferred action:

(1) maintain the child within the home and provide protective services on a voluntary basis or through protective supervision;

(2) have the alleged offender removed from the home under Minnesota Statutes, section 260C.148; or

(3) seek removal of the child from the home according to subpart 9 if the child is found in surroundings or conditions which endanger the child's health or welfare and the child cannot be protected from harm while remaining in the home;

C. if the family refuses to accept protective services, request the county attorney to obtain a judicial order authorizing the local agency to provide involuntary protective services; and

D. if the family accepts or a court authorizes services, formulate a written protective services plan and provide protective services under part 9560.0228.

Subp. 9. **Removal procedures.** The local agency shall follow the procedures in items A to E when a child is removed from the home.

A. The local agency shall place the child pursuant to part 9560.0223.

B. The local agency shall determine whether a voluntary placement provides for the child's health, safety, and welfare.

C. If the child is not placed voluntarily and the child is in imminent danger, the local agency:

(1) shall obtain the emergency removal of the child from the home by:

(a) seeking the assistance of the law enforcement agency to take the child into immediate custody; or

(b) petitioning the juvenile court for immediate legal custody of the child; and

(2) shall, if the child is placed with a relative or in a shelter care facility, advise the person taking the child into custody or the court whether disclosure of the child's location would endanger the child.

D. If a child is not placed voluntarily and the child is not in imminent danger, the local agency shall ask the county attorney to petition the juvenile court for placement of the child under parts 9560.0500 to 9560.0670.

E. When a child is placed on an emergency basis for alleged maltreatment, the local agency shall review the placement to determine the services necessary to allow the child to return home.

Statutory Authority: *MS s 14.388; 256.01; 256E.05; 257.175; 393.07; 626.556*

History: *13 SR 303; 17 SR 3412; L 1999 c 139 art 4 s 2; 25 SR 1772; L 2003 1Sp14 art 11 s 11; L 2005 c 159 art 1 s 15; 32 SR 565*

Published Electronically: *October 11, 2007*