

260E.28 CONDUCTING INVESTIGATION IN FACILITY OR SCHOOL.

Subdivision 1. **Immediate investigation for alleged maltreatment in a facility.** (a) The commissioner of human services, health, or education, whichever is responsible for investigating the report, shall immediately investigate if the report alleges that:

(1) a child who is in the care of a facility as defined in section 260E.03 is the victim of maltreatment in a facility by an individual in that facility or has been the victim of maltreatment in a facility by an individual in that facility within the three years preceding the report; or

(2) a child is the victim of maltreatment in a facility by an individual in a facility defined in section 260E.03, subdivision 6, while in the care of that facility within the three years preceding the report.

(b) The commissioner of the agency responsible for investigating the report shall arrange for the transmittal to the commissioner of reports received by local agencies and may delegate to a local welfare agency the duty to investigate reports. The commissioner of the agency responsible for investigating the report or local welfare agency may interview any children who are or have been in the care of a facility under investigation and the children's parents, guardians, or legal custodians.

(c) In conducting an investigation under this section, the commissioner has the powers and duties specified for a local welfare agency under this chapter.

Subd. 2. **Preinterview notification for facility investigation.** Before any interview related to maltreatment in a facility under the provisions of section 260E.22, the commissioner of the agency responsible for investigating the report or local welfare agency shall notify the parent, guardian, or legal custodian of a child who will be interviewed in the manner provided for in section 260E.22. If reasonable efforts to reach the parent, guardian, or legal custodian of a child in an out-of-home placement have failed, the child may be interviewed if there is reason to believe the interview is necessary to protect the child or other children in the facility. The commissioner of the agency responsible for assessing or investigating the report or local agency must provide the information required in this subdivision to the parent, guardian, or legal custodian of a child interviewed without parental notification as soon as possible after the interview. When the investigation is completed, any parent, guardian, or legal custodian notified under this subdivision shall receive the written memorandum provided for in section 260E.30, subdivision 5.

Subd. 3. **Facility records.** The commissioner of human services, the ombudsman for mental health and developmental disabilities, the local welfare agencies responsible for investigating reports, the commissioner of education, and the local law enforcement agencies have the right to enter a facility as defined in section 260E.03 and to inspect and copy the facility's records, including medical records, as part of the investigation. Notwithstanding the provisions of chapter 13, the commissioner of human services, the ombudsman for mental health and developmental disabilities, the local welfare agencies responsible for investigating reports, the commissioner of education, and the local law enforcement agencies also have the right to inform the facility under investigation that an investigation is being conducted, to disclose to the facility the names of the individuals under investigation for maltreating a child, and to provide the facility with a copy of the report and the investigative findings.

Subd. 4. **Access to information.** In conducting investigations under this chapter, the commissioner or local welfare agency shall obtain access to information consistent with section 260E.20, subdivision 3. In conducting investigations under this section, the commissioner of education shall obtain access to reports and investigative data that are relevant to a report of maltreatment and are in the possession of a school facility as defined in section 260E.03, subdivision 6, clause (2), notwithstanding the classification of the data as educational or personnel data under chapter 13. This includes but is not limited to school investigative

reports, information concerning the conduct of school personnel alleged to have committed maltreatment of students, information about witnesses, and any protective or corrective action taken by the school facility regarding the school personnel alleged to have committed maltreatment.

Subd. 5. **Investigation involving school facility.** In conducting an investigation involving a school facility as defined in section 260E.03, subdivision 6, clause (2), the commissioner of education shall collect available and relevant information and use the procedures in sections 260E.20, subdivisions 2 and 3, and 260E.22, except that the requirement for face-to-face observation of the child and face-to-face interview of the alleged offender is to occur in the initial stages of the investigation, provided that the commissioner may also base the investigation on investigative reports and data received from the school facility and local law enforcement agency, to the extent those investigations satisfy the requirements of sections 260E.20, subdivisions 2 and 3, and 260E.22.

History: *1Sp2020 c 2 art 7 s 28*