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MSBA/MASA Model Policy 906

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906 COMMUNITY NOTIFICATION OF PREDATORY OFFENDERS

[Note: Education district board adoption of a policy regarding a predatory offender notification is discretionary. The Sex Offender Community Notification Act, Minn. Stat. § 244.052, imposes duties on law enforcement agencies but does not impose mandatory notification duties on education districts except as set forth in Paragraph IV.B.6., below.]

I. PURPOSE

The purpose of this policy is to assist education district administrators and staff members in responding to a notification by a law enforcement agency that a convicted predatory offender is moving into the education district so that they may better protect individuals in the education district's care while they are on or near the education district premises or under the control of the education district.

II. GENERAL STATEMENT OF POLICY

- A. The policy of the education district is to provide information to staff regarding known predatory offenders that are moving into the education district so that they may monitor education district premises for the safety of the education district, its students, and employees. Staff will be notified as appropriate and have access to Offender Fact Sheets.
- B. The executive director, in cooperation with appropriate education district transportation officials, will evaluate bus routes and bus stops. Bus drivers will have access to Offender Fact Sheets. If necessary, bus stops may be moved if they place children in close proximity to a predatory offender who has been convicted of crimes against children of similar ages.
- C. The executive director, in conjunction with the building assistant director or designee, shall prepare or provide safety information for distribution to students regarding protecting themselves from abuse, abduction, or exploitation. The education district will prepare a list of available resources. Staff will provide safety information to students on how to protect themselves against abuse, abduction, or exploitation. Education district officials may ask their police liaison officer or local law enforcement officials for assistance in providing instruction to staff and students.

III. DEFINITIONS

- A. The "Sex Offender Community Notification Act," Minn. Stat. § 244.052, as amended, allows law enforcement agencies to disclose information about certain

predatory offenders when they are released into the community. The information disclosed and to whom it is disclosed will depend upon their assessment of the level of risk posed by the predatory offender.

B. “Risk Level Assessment” is the level of danger to the community as established by the Minnesota Department of Corrections following a review by a committee of experts. The level of risk assigned to a soon-to-be-released offender determines the scope of notification. (Minn. Stat. § 244.052, Subds. 2, 3)

C. “Risk Levels”

1. “Level I” – Risk Level I is assigned to a predatory offender whose risk assessment score indicates a low risk of reoffense.
2. “Level II” – Risk Level II is assigned to a predatory offender whose risk assessment score indicates a moderate risk of reoffense.
3. “Level III” – Risk Level III is assigned to a predatory offender whose risk assessment score indicates a high risk of reoffense.

(Minn. Stat. § 244.052, Subd. 3(e))

D. “Notification or Disclosure by Law Enforcement Agency”

1. Risk Level I – The local law enforcement agency may disclose certain information to other law enforcement agencies and to any victims of or witnesses to the offense committed by the offender. There will be no disclosure to education districts.
2. Risk Level II – In addition to those notified in Level I, a law enforcement agency may notify agencies and groups the offender is likely to encounter that the offender is about to move into the community and provide to those agencies and groups an Offender Fact Sheet on the offender. Education districts, private schools, day care centers, and other institutions serving those likely to be victimized by the predatory offender are included in a Level II notification.
3. Risk Level III – In most cases, the local law enforcement agencies will hold a community meeting and distribute an Offender Fact Sheet with information concerning and a photograph of the soon-to-be-released Level III offender.

(Minn. Stat. § 244.052, Subd. 4)

E. “Offender Fact Sheet” is a data sheet compiled by the Department of Corrections or local law enforcement agency. The Offender Fact Sheet contains both public and private data including a photograph and physical description of the predatory offender, as well as the general location of the offender’s residence.

1. A local law enforcement agency will generally provide Offender Fact Sheets for Level II predatory offenders directly to the education district.
 2. Level III Offender Fact Sheets will be distributed at a community meeting conducted by the local law enforcement agency.
- F. “Law enforcement agency” means the law enforcement agency having primary jurisdiction over the location where the offender expects to reside upon release. (Minn. Stat. § 244.052, Subd. 1(3))
- G. “Criminal history conviction data” is public data on a convicted criminal which is compiled by the State Bureau of Criminal Apprehension (BCA). (Minn. Stat. § 13.87)

IV. PROCEDURES

A. Level II Notification

In keeping with the statutorily designated purpose that Offender Fact Sheets are to be used by staff members to secure the education district and protect individuals in the education district’s care while they are on or near the education district’s premises or under the control of the education district, the education district will take the following steps:

1. The executive director shall notify the law enforcement agencies within the education district that all appropriate Level II and Level III notifications are to be provided at least to the executive director of education district s.
2. Upon notification of the release of a Level II predatory offender, the executive director shall forward the Offender Fact Sheet to all building assistant directors and central office administrators. This would include transportation, food service and buildings and grounds supervisors.
3. Assistant directors of education district s in close proximity to the Level II predatory offender’s residence shall meet with staff and show the Offender Fact Sheet to persons within the buildings who supervise students or who would be in a position to observe if the Level II offender was in or around the education district. This includes, but is not limited to, administrators, teachers, coaches, paraprofessionals, custodians, clerical and office workers, food service workers, volunteers, and transportation providers.
4. The education district shall request criminal history conviction data on the Level II predatory offender from its local law enforcement agency. On a case-by-case basis, the executive director may determine whether to send a letter to parents with general information regarding release of the Level II offender and a copy of the criminal history conviction data that the

education district obtained from its local law enforcement agency. The offender fact sheet contains data classified as private or not public under Minnesota law and may only be distributed to parents, students, or others outside the education district if it determines the release is for the purpose of securing the education district's and protecting individuals under the education district's care while they are on or near education district premises.

5. The building administrator shall cause the Offender Fact Sheet to be posted in each building in an area accessible to staff and employees but not the general public unless a determination has been made that public posting will help secure the education district or protect students.
6. The education district shall not distribute or provide access to Level II Offender Fact Sheets to parents, students, or others outside the education district unless a determination has been made that dissemination of the data will help secure the education district or protect students.

[Note: The Department of Administration issued an opinion confirming that the Predatory Offender Fact Sheet contains private data or not public data. However, it is the department's opinion that a education district may release any information contained in the notification to anyone, including staff, students, parents, and guardians, if it determines that the release of data will help secure the education district or protect students.]

B. Level III Notification

1. The executive director shall notify the law enforcement agencies within the education district that all Level III notifications of community meetings are to be provided to the executive director of education districts.
2. When a Level III predatory offender is released into a community, generally the local law enforcement agency will notify the education district of the time and location of the community meeting at which the Level III Offender Fact Sheet will be distributed to the community.
3. When the education district receives this information, the executive director shall determine on a case-by-case basis whether the education district will notify parents and students of the time, date, and location of the community meeting.
4. When notified of a Level III predatory offender community meeting the executive director or another education district administrator designated by the executive director shall attend the community notification meeting.
5. When the education district receives information that a Level III predatory

offender is moving into the education district, in addition to following the procedures specified above, the education district shall follow the procedures outlined for a Level II notification.

6. If the predatory offender is participating in programs offered by the education district that require or allow the person to interact with children other than the person's children, the executive director shall notify parents of children in the education district of the contents of the Offender Fact Sheet.

Legal References: Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)
Minn. Stat. § 244.052 (Community Notification)
20 U.S.C. § 1232g (Family Educational Rights and Privacy Act)
42 U.S.C. § 16901 *et seq.* (Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Program)
Dept. of Admin. Advisory Op. No. 98-004

Cross References: MSBA/MASA Model Policy 414 (Mandated Reporting of Child Neglect or Physical or Sexual Abuse)
MSBA/MASA Model Policy 415 (Mandated Reporting of Maltreatment of Vulnerable Adults)
MSBA/MASA Model Policy 515 (Protection and Privacy of Pupil Records)
MSBA/MASA Model Policy 903 (Visitors to School District Buildings and Sites)