

PROCEDURE 543 – THE USE OF RESTRICTIVE PROCEDURES AS BEHAVIORAL INTERVENTIONS FOR CHILDREN WITH DISABILITIES RECEIVING SPECIAL EDUCATION SERVICES

I. Definitions

- A. Restrictive Procedures means the use of physical holding or seclusion in an emergency.
- B. Physical holding is physical intervention intended to hold a student immobile or limit a student's movement and where body contact is the only source of physical restraint and where immobilization is used to effectively gain control of a child in order to protect a child or other individual from physical injury. Physical holding does not include physical contact that:
 - 1. helps a student respond or complete a task;
 - 2. assists a student without restricting the student's movement;
 - 3. is needed to administer an authorized health-related service or procedure;
 - 4. is needed to physically escort a student when the student does not resist or the student's resistance is minimal; or
 - 5. is used to discipline a non-compliant student.
- C. Seclusion is confining a student alone in a room from which egress is barred. Egress may be barred by an adult locking or closing the door in the room or preventing the child from leaving the room. Removing a student from an activity to a location where the student cannot participate in or observe the activity is not seclusion.
- D. Emergency means a situation where immediate intervention is needed to protect a student or other individual from physical injury. Emergency does not include a student not responding to a task or request unless such failure to respond would result in physical injury to the child or other individual.
- E. Prohibited Procedures
 - 1. Prohibited procedures are interventions that are prohibited from use in schools by district employees, contracted personnel, and volunteers. The actions described below are prohibited procedures:
 - 2. Corporal punishment, as defined in state law.
 - 3. Requiring a pupil to assume and maintain a specified physical position, activity, or postures that induces physical pain as punishment.
 - 4. Presentation of intense sounds, lights, or other sensory stimuli as punishment.
 - 5. Denying or restricting a student's access to equipment and devices that facilitate the student's functioning, except temporarily when necessary to prevent injury to the student or others or the student is perceived to be destroying or seriously damaging equipment or devices, in which case the equipment or device shall be returned to the child as soon as possible.
 - 6. Total or partial restriction of auditory or visual senses (not to include study carrels when used as an academic intervention).
 - 7. Withholding regularly scheduled meals or water.
 - 8. Denying a student access to toilet facilities.

9. Interacting with a student in a manner that constitutes sexual abuse, neglect, or physical abuse as defined by Minnesota law.
10. Physical holding that restricts or impairs a student's ability to breathe, restricts or impairs a child's ability to communicate distress, places pressure or weight on a child's head, throat, neck, chest, lungs, sternum, diaphragm, back or abdomen, or results in straddling a child's torso.

II. Training for Staff

- A. Staff training will be provided to licensed special education teachers, school social workers, school psychologists, behavior analysts certified by the National Behavior Analyst Certification Board, a person with a master's degree in behavior analysis, other licensed education professionals, paraprofessionals credentialed for education paraprofessionals, and mental health professionals who work with students receiving special education services. Staff training will include:
 1. Positive behavioral interventions.
 2. Communicative intent of behaviors
 3. Relationship building.
 4. Alternatives to restrictive procedures, including techniques to identify events and environmental factors that may escalate behavior.
 5. De-escalation methods.
 6. Standards for using restrictive procedures only in an emergency.
 7. Obtaining emergency medical assistance.
 8. The physiological and psychological impact of physical holding and seclusion.
 9. Monitoring and responding to a child's physical signs of distress when physical holding is being used.
 10. Recognizing the symptoms of and interventions that may cause positional asphyxia when physical holding is used.
 11. School district policies and procedures for timely reporting and documenting each incident involving use of a restricted procedure.
 12. School wide programs on positive behavior strategies.
- B. The school district will document participation in staff development activities regarding the use of restrictive procedures and who provided the training.

III. Documenting Use of Restrictive Procedures

- A. Restrictive procedures may be used only in an emergency. Restrictive procedures may be included in a student's Individual Educational Program (IEP) or Behavior Intervention Plan (BIP); however, the restrictive procedures may be used only in response to behavior that constitutes an emergency.
- B. A student's case manager will make reasonable efforts to notify a student's parent on the same day a restrictive procedure is used. If same day notice is not possible, the case manager will send a notice within two days by written or electronic means or by the preferred means indicated by the parent at an IEP team meeting.

- C. The staff member who implements or oversees the physical holding or seclusion must document all uses of restrictive procedures.
- D. The site leader at any school that intends to use restrictive procedures will post the following information on the school's website;
 - 1. a list of the restrictive procedures the school intends to use;
 - 2. a description of how the school will implement a range of positive behavior strategies and provide links to mental health services;
 - 3. a description of how the school will monitor and review the use of restrictive procedures, including:
 - a. conducting post-use briefings
 - b. convening an oversight committee to undertake a quarterly review of the use of restrictive procedures.
 - 4. a description of staff training; and
 - 5. identity of the oversight committee members.

IV. Use of Restrictive Procedures as Part of the IEP

In preparing the IEP, the IEP team will include, when appropriate, restrictive procedures to be used in an emergency. Restrictive procedures may only be used for emergency situations.

- A. Use of Restrictive Procedures Not Included in an IEP
 - 1. If the student's IEP does not provide for using restrictive procedures in an emergency and a restrictive procedure is used as an emergency intervention on two separate school dates within 30 calendar days, or a student's pattern of behavior is emerging that interferes with the achievement of the student's educational goals and objectives, or at the request of the parent after restrictive procedures are used, the following procedures must be followed:
 - 2. The staff person who implements or oversees the restrictive procedure will document the reason for and use of a restrictive procedure in an emergency situation and inform the parent/legal guardian and building administrator immediately following the emergency situation.
 - 3. Within 10 calendar days after district staff use restrictive procedures on two separate school days within 30 calendar days or when a pattern emerges, the student's special education team must meet to determine if the student's IEP is adequate, if additional assessment is needed and, if necessary, amend the IEP. The team must review any known medical or psychological limitations, including any medical information the parent provides voluntarily, that contra-indicate the use of a restrictive procedure, consider whether to prohibit that restrictive procedure, and document any prohibition in the IEP or BIP.
 - 4. Restrictive procedures may be used in emergencies until the IEP team meets.
 - 5. If the school district uses restrictive procedures on a student on ten or more school days during the same school year, the IEP team must, as appropriate, take one or more of the following actions;
 - a. Consult with other professionals working with the child
 - b. Consult with experts on behavior analysis, mental health, communication, or autism,
 - c. Consult with culturally competent professionals,

- d. Review existing evaluations, resources, and successful strategies, or consider whether to reevaluate the student.
- B. Use of Restrictive Procedures in IEPs:
1. In order to plan for use of a restrictive procedure in an emergency, the team must conduct an assessment including a Functional Behavior Assessment (FBA) and prepare a report which includes:
 - a. The frequency and severity of target behaviors for which the restrictive procedure is being considered;
 - b. At least two positive interventions implemented and the effectiveness of each; and
 - c. Recommendations for the design and implementation of restrictive procedures in an emergency based on present levels of performance, needs, goals and objectives, for documentation in the IEP.
 2. The IEP team must also develop a written BIP that describes the steps for implementing restrictive procedures in an emergency (use District Behavior Support Plan form).
 3. When restrictive procedures are in an IEP or BIP the school district shall prepare and serve a Notice of Proposed Special Education Services form indicating that restrictive procedures have been added to the IEP. The Notice must inform the parent that, except for initial placement and provision of services, the school district will proceed with the use of restrictive procedures in an emergency unless the parent objects in writing on the Notice or otherwise in writing within fourteen (14) calendar days after receipt of the Notice. The use of restrictive procedures must be reviewed at the student's annual IEP meeting.
 4. The IEP, Notice and Behavior Support Plan, if any must be filed in the student's cumulative file.

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Legal References:

Minn. Stat. §125A.0942
Minn. Stat. §121A.58
Minn. Stat. §626.556

School Board
INDEPENDENT SCHOOL DISTRICT 279
Maple Grove, Minnesota