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District 77 Policy 543

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543 USE OF PEACE OFFICERS AND CRISIS TEAMS TO REMOVE STUDENTS FROM SCHOOL GROUNDS

[Note: School districts are required by statute to have a policy addressing these issues.]

[Note: Minnesota Laws 2009, Chapter 96, made a number of changes to the laws and rules governing the use of “conditional procedures” with respect to special education students. Specifically, Chapter 96 repealed, EFFECTIVE AUGUST 2, 2011, Minn. Stat. §§ 121A.66, 121A.67, Subd. 1, as well as Minn. Rules 3525.0210, Subparts 5, 6, 9, 13, 17, 29, 30, 46, 47, and 3525.2900, Subp. 5. These laws and rules were replaced, effective August 1, 2011, with a “restrictive procedures law which generally addresses the restraint of special education students.” Also note that the new restrictive procedures law contains a significant staff training component, found at Minn. Stat. § 125A.0942, Subds. 1, 2, and 5. Staff who intend to use restrictive procedures must be trained in the areas specified in Subd. 5 to use these procedures.]

I. PURPOSE

The purpose of this policy is to describe the appropriate use of peace officers and crisis teams to remove, if necessary, a student from school grounds.

II. GENERAL STATEMENT OF POLICY

The school district is committed to promoting learning environments that are safe for all members of the school community. It further believes that students are the first priority and that they should be reasonably protected from physical or emotional harm at all school locations and during all school activities.

In general, all students, including those with IEPs, are subject to the terms of the school district’s discipline policy. Building level administrators have the leadership responsibility to maintain a safe, secure, and orderly educational environment. Corrective action to discipline a student and/or modify a student’s behavior will be taken by staff when a student’s behavior violates the school district’s discipline policy.

If a student, including a student with an IEP, engages in conduct which, in the judgment of school personnel, endangers or may endanger the health, safety, or property of the student,

other students, staff members, or school property, that student may be removed from school grounds in accordance with this policy.

III. DEFINITIONS

For purposes of this policy, the following terms have the meaning given them in this section:

- A. “Student with an IEP” means a student who is eligible to receive special education and related services pursuant to the terms of the IEP or an individual interagency intervention plan (IIIP)
- B. “Peace officer” means an employee or an elected or appointed official of a political subdivision or law enforcement agency who is licensed by the Board of Peace Officer Standards and Training, charged with the prevention and detection of crime and the enforcement of general criminal laws of the state and who has the full power of arrest. The term “peace officer” includes a person who serves as a sheriff, a deputy sheriff, a police officer, or a state patrol trooper.
- C. “Police liaison officer” is a peace officer who, pursuant to an agreement between the school district and a political subdivision or law enforcement agency, is assigned to a school building for all or a portion of the school day to provide law enforcement assistance and support to the building administration and to promote school safety, security, and positive relationships with students. Police liaison officers act under the supervision of local law enforcement agencies.
- D. “Crisis team” means a group of persons, which may include teachers and non-teaching school personnel, selected by the building administrator in each school building who have received crisis intervention training and are responsible for becoming actively involved with resolving crises. The building administrator or designee shall serve as the leader of the crisis team.
- E. The phrase “remove the student from school grounds” is the act of securing the person of a student and escorting that student from the school building or school activity at which the student is located.
- F. “Emergency” means a situation where immediate intervention is needed to protect a child or other individual from physical injury or to prevent serious property damage.
- G. All other terms and phrases used in this policy shall be defined in accordance with applicable state and federal law or ordinary and customary usage.

IV. REMOVAL OF STUDENTS FROM SCHOOL GROUNDS

- A. Removal By Crisis Team

If the behavior of a student escalates to the point where the student's behavior endangers or may endanger the health, safety, or property of the student, other students, staff members, or school property, the school building's crisis team may be summoned. The crisis team will, when possible, attempt to de-escalate the student's behavior by means including, but not limited to, those described in the student's IEP and/or behavior intervention plan. When such measures fail, or when the crisis team determines that the student's behavior continues to endanger or may endanger the health, safety, or property of the student, other students, staff members, or school property, the crisis team may remove the student from school grounds. For students with an IEP, the school staff will follow federal and state special education due process requirements.

If the student's behavior cannot be safely managed or if the school district has reason to believe the student has committed a crime, school personnel may immediately request assistance from the police liaison officer or a peace officer.

B. Removal By Police Liaison Officer or Peace Officer

If a student engages in conduct which endangers or may endanger the health, safety, or property of the student, other students, staff members, or school property, school building's crisis team, building administrator, or the building administrator's designee, may request that the police liaison officer or a peace officer remove the student from school grounds. This policy does not dictate or limit the discretion of the police liaison officer.

If a student with an IEP is restrained or removed from a classroom, school building, or school grounds by a peace officer at the request of a school administrator or school staff person during the school day twice in a 30-day period, the student's IEP team must meet to determine if the student's IEP is adequate or if additional evaluation is needed.

If the school district reports a crime committed by a student, including a student with an IEP, school personnel shall transmit copies of the special education and disciplinary records of the student for consideration by appropriate authorities to whom it reports the crime, to the extent that the transmission is permitted by the Family Education Rights and Privacy Act (FERPA), the Minnesota Government Data Practices Act, and school district's policy - Protection and Privacy of Pupil Records.

The fact that a student with an IEP is covered by special education law does not prevent state law enforcement and judicial authorities from exercising their responsibilities with regard to the application of federal and state law to crimes committed by a student with an IEP.

C. Reasonable Force Permitted

In removing a student from school grounds, a building administrator, other crisis team members, or the police liaison officer or other agents of the school district,

whether or not members of a crisis team, may use reasonable force when it is necessary under the circumstances to correct or restrain a student or prevent bodily harm or death to another.

In removing a student with an IEP from school grounds, police liaison officers and school district personnel are further prohibited from engaging in the following conduct:

1. Corporal punishment prohibited by Minn. Stat. § 121A.58;
2. Requiring a child to assume and maintain a specified physical position, activity, or posture that induces physical pain;
3. Totally or partially restricting a child's senses as punishment
4. Denying or restricting a child's access to equipment and devices such as walkers, wheel chairs, hearing aids, and communication boards that facilitate the child's functioning except when temporarily removing the equipment or device is needed to prevent injury to the child or others or serious damage to the equipment or device, in which case the equipment or device shall be returned to the child as soon as possible;
5. Interacting with a child in a manner that constitutes sexual abuse, neglect, or physical abuse under Minn. Stat. § 626.556;
6. Physical holding (as defined in Minn. Stat. § 125A.0941) that restricts or impairs a child'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;
7. Withholding regularly scheduled meals or water; and/or
8. Denying a child access to toilet facilities.

[Note: Until August 1, 2015, a school district may use prone restraints with children age five (5) or older if:

- a. *The district has provided to the Minnesota Department of Education (MDE) a list of staff who have had specific training on the use of prone restraints;*
- b. *The district provides information on the type of training that was provided and by whom;*

- c. *Only staff who have received specific training may use prone restraints;*
- d. *Each incident of the use of prone restraints is reported to MDE within five (5) working days on a form provided by MDE; and*
- e. *A school district, before using prone restraints, must review any known medical or psychological limitations that contraindicate the use of prone restraints.*

By February 1, 2015, stakeholders must recommend to the Commissioner of MDE (Commissioner) specific and measurable implementation and outcome goals for reducing the use of restrictive procedures, and the Commissioner must submit to the Legislature a report on districts' progress in reducing the use of restrictive procedures that recommends how to further reduce these procedures and eliminate the use of prone restraints.]

D. Parental Notification

The building administrator or designee shall make reasonable efforts to notify the student's parent or guardian of the student's removal from school grounds as soon as possible following the removal.

E. Continued Removals; Review of IEP

Continued and repeated use of the removal process described herein must be reviewed in the development of the individual student's IEP or IIP.

F. Effect of Policy in an Emergency; Use of Restrictive Procedures

A student with an IEP may be removed in accordance with this policy regardless of whether the student's conduct would create an emergency.

If the school district seeks to remove a student with an IEP from school grounds under this policy due to behaviors that constitute an emergency and the student's IEP, IIP, or behavior intervention plan authorizes the use of one or more restrictive procedures, the crisis team may employ those restrictive procedures, in addition to any reasonable force that may be necessary, to facilitate the student's removal from school grounds, as long as the crisis team members who are implementing the restrictive procedures have received the training required by Minn. Stat § 125A.0942, Subd. 5, and otherwise comply with the requirements of § 125A.0942.

Legal References: 20 U.S.C. 1415(k)(6) (Individuals with Disabilities Education Improvement Act of 2004 (IDEA))
34 C.F.R. 300. 535 (IDEA Regulation Regarding Involvement of Law

Enforcement)

20. U.S.C. 1232g *et seq.* (Family Educational Rights and Privacy (FERPA))

Minn. Stat. § 13.01 *et seq.* (Minnesota Government Data Practices Act)

Minn. Stat. §§ 121A.40-121A.56 (Minnesota Pupil Fair Dismissal Act)

Minn. Stat. § 121A.582 (Student Discipline; Reasonable Force)

Minn. Stat. § 121A.61 (Discipline and Removal of Students from Class)

Minn. Stat. § 121A.67 Subd. 2 (Aversive and Deprivation Procedures)

Minn. Stat. §§ 125A.094-125A.0942 (Restrictive Procedures for Children with Disabilities)

Minn. Stat. § 609.06 (Authorized Use of Force)

Minn. Stat. § 609.379 (Permitted Actions)

Cross References:

District 77 Policy 506 (Student Discipline)

District 77 Policy 507 (Corporal Punishment)

District 77 Policy 515 (Protection and Privacy of Pupil Records)

District 77 Policy 525 (Violence Prevention [Applicable to Students and Staff])

District 77 Policy 809 (Crisis Management Policy)