

Restrictive Procedures Plan

Saint Paul Public Schools Office of Specialized Services

In August of 2011, the state of Minnesota established standards regarding the use of Restrictive Procedures with students identified with disabilities in Minnesota public schools. On July 1, 2013 and May 21, 2014, amendments to Minnesota Statutes sections 125A.0941 and 125A.0942, with respect to the use of restrictive procedures on children with disabilities in Minnesota public schools went into effect.

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Saint Paul Public Schools (SPPS) is committed to using positive behavioral interventions and supports to ensure that all students' needs are being met. Positive Behavior Interventions and Supports (PBIS) is a proactive approach to establishing the behavioral supports and culture needed for all students to achieve social, emotional and academic success. Saint Paul Public Schools utilizes PBIS as an implementation framework designed emphasizing the use of data to inform decisions about the selection, implementation, and progress monitoring of evidence-based behavioral practices and organizing resources and systems to improve implementation fidelity.

Minn. Stat. 125A.0941(d)

Restrictive Procedures

Major change in Use of Restrictive Procedures, September 1, 2014:

***As of September 2014, the Saint Paul Public Schools intends to use Physical Holding as its only Restrictive Procedure. The use of seclusion will be discontinued effective September 1, 2014.**

Effective as of the 2014-2015 school year, SPPS intends to use only the following Restrictive Procedures:
Physical Holding

Saint Paul Public Schools intends to use the following types of physical holding:

- Crisis Prevention Institute's (CPI) Children's Control Position
- Crisis Prevention Institute's (CPI) Team Control Position

Minn. Stat. 125A.0942, Subd. 1(1)

Definitions

Restrictive Procedures: The use of physical holding or seclusion in an emergency. Restrictive procedures must not be used to punish or otherwise discipline a student.

Minn. Stat. § 125A.0941(f).

Physical Holding: Intending to hold a student immobile or limit a student's movement, where body contact is the only source of physical restraint, and where immobilization is used to effectively gain control of a student in order to protect a student or other individual from physical injury.

Minn. Stat. § 125A.0941(c).

The term physical holding does not mean physical contact that:

- Helps a student respond or complete a task
- Assists a student without restricting the child's movement
- Is needed to administer an authorized health-related service or procedure
- Is needed to physically escort a student when the student does not resist or the student's resistance is minimal
- Physical holding may not be used to punish or otherwise discipline a student.

Minn. Stat. 125A.0941(f)

Saint Paul Public Schools does not use prone restraint.

Seclusion*: means confining a child 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 child from an activity to a location where the child cannot participate in or observe the activity is not seclusion.

Minn. Stat. § 125A.0941(g).

The term seclusion does not mean removing a student from an activity to a location where the student cannot participate in or observe the activity.

Minn. Stat. 125A.0941(f)

Emergency: A situation where immediate intervention is needed to protect a student or other individual from physical injury. Emergency does not mean circumstances such as a student who:

- Does not respond to a task or request and instead places his or her head on a desk or hides under a desk or table;
- Does not respond to a staff person's request unless failing to respond would result in physical injury to the student or other individual;
- Has regained control after an emergency incident has already occurred and no threat of physical injury currently exists.

Minn. Stat. § 125A.0941(b)

Monitoring the Use of Restrictive Procedures

Saint Paul Public Schools monitors and reviews the use of Restrictive Procedures in the following manner:

Documentation: Each time physical holding is used with a student with disabilities, the staff person who implements or oversees the physical holding shall document, as soon as possible after the incident concludes, but within 24 hours, the following information on the school district online custom website:

- A description of the incident that led to the physical holding
- Why a less restrictive measure failed or was determined by staff to be inappropriate or impractical
- The time the physical holding or began and the time the student was released
- A brief record of the student's behavioral and physical status

Minn. Stat. 125A.0942, Subd. 1(2)

The District's Restrictive Procedures Website for documentation can be found at <http://it.spps.org> > Staff Resources > Custom Websites > Restrictive Procedures or through this link: <https://spedrestproc.spps.org/>.

Additional information regarding Restrictive Procedures can be found at <http://www.spps.org/site/Default.aspx?PageID=23553> or through the Minnesota Department of Education website at <http://education.state.mn.us/MDE/dse/sped/restr/>.

Minn. Stat. 125A.0942, Subd. 1(2)

Post-Use Debriefings: Each time physical holding is used, the staff person who implemented or oversaw the physical holding shall conduct a post-use debriefing with the staff involved, ideally within 24 hours, but no later than 48 hours after the incident concludes.

The post-use debriefing will review the following requirements to ensure the physical holding was used appropriately:

- Whether the physical holding was used in an emergency.
Minn. Stat. 125A.0942, Subd. 3 8
- Whether the physical holding was the least intrusive intervention that effectively responds to the emergency.
Minn. Stat. 125A.0942, Subd 3(1)9
- Whether the physical holding ended when the threat of harm ended and the staff determined that the student could safely return to the classroom or activity.
Minn. Stat. 125A.0942, Subd. 3(2)10
- Whether the staff directly observed the student while physical holding was being used.
Minn. Stat. 125A.0942, Subd. 3(3)11
- Whether the documentation was completed correctly.
Minn. Stat. 125A.0942, Subd. 3(4)
- Whether the parents were correctly notified.
Minn. Stat. 125A.0942, Subd. 2(b)12 and
Minn. Stat. 125A.0942, Subd. 2(d)13
- Whether an IEP team meeting needs to be scheduled.
Minn. Stat. 125A.0942, Subd. 2(c)14
- Whether the appropriate staff used physical holding.
Minn. Stat. 125A.0942, Subd. 2(a)
- Whether the staff that used physical holding was appropriately trained.
Minn. Stat. 125A.0942, Subd.

If the post-use debriefing determines that physical holding was not used appropriately, Saint Paul Public Schools will ensure that immediate corrective action is taken, via review of statutes on Restrictive Procedures, mandating additional training or refresher training in area of infraction, formal reprimand or application of other formal disciplinary procedures.

Links to Mental Health Services:

- Ramsey County Children's Crisis Hotline, available 24/7
651-266-7878
- Amherst Wilder Foundation, Children's Mental Health
651-280-2310
- Family Innovations, Children's Mental Health
651-407-3631
- Family Circle Counseling, Children's Mental Health
651-646-1488
- Prairie Care **888-9-prairie**, Needs Assessment
 - A Needs Assessment is not a full psychiatric evaluation, but rather a comprehensive assessment which determines the most appropriate mental health services to address an individual's needs. This may include, but is not limited to: outpatient clinic services, intensive outpatient programs, partial hospital, inpatient hospital, residential treatment, or substance abuse treatment.

Oversight Committee:

Saint Paul Public Schools had identified an oversight committee to undertake a quarterly review of the use of restrictive procedures based on patterns or problems indicated by similarities in the time of day, day of the week, duration of the use of a procedure, the individuals involved, or other factors associated with the use of restrictive procedures; the number of times a restrictive procedure is used school-wide and for

individual students; the number and type of injuries, if any, resulting from the use of restrictive procedures; whether restrictive procedures are used in nonemergency situations; the need for additional staff training; and proposed actions to minimize the use of restrictive procedures; and includes a written description and documentation of the training staff completed under subdivision 5.

Minn. Stat. § 125A.0942, subd.1(a).

Schools annually must publicly identify oversight committee members who must at least include:

- (1) A mental health professional, school psychologist, or school social worker
- (2) An expert in positive behavior strategies
- (3) A special education administrator
- (4) A general education administrator

Minn. Stat. § 125A.0942, Subd. 1(b)

Saint Paul Public Schools oversight committee meets quarterly. The committee consists of the following members:

District Coach for Specialized Services Compliance
 District Coach/Lead Social Worker
 General Education Building Principal
 Specialized Services Building Principal
 District Coach for Secondary Specialized Services – Restrictive Procedures and Training
 Office of Specialized Services Supervisor

Staff Training

Saint Paul Public Schools provides a range of tiered strategies as a proactive approach to teaching positive behaviors skills, thereby reducing students' challenging behaviors and the need for the use of restrictive procedures. Saint Paul Public Schools maintains a list of trainings offered in the District each year (through the online staff development system, PD Express) in order to staff to meet the knowledge areas listed below, including Nonviolent Crisis Intervention and training on de-escalation techniques. The District will also maintain documentation of the staff members who attend those trainings.

Saint Paul Public Schools staff has received training in the following skills and knowledge areas:

- Positive Behavioral Interventions
- Communicative Intent of Behaviors
- Relationship Building
- Alternative to Restrictive Procedures, including techniques to identify events and environmental factors that may escalate behavior
- De-escalation Methods
- Standards for Using Restrictive Procedures
- Obtaining Emergency Medical Assistance
- Physiological and Psychological Impact of Physical Holding and Seclusion
- Monitoring and responding to a child's physical signs of distress when physical holding is being used
- Recognizing the symptoms of and interventions that may cause positional asphyxia when physical holding is used

Minn. Stat. 125A.0942, Subd. 1(3) and Subd. 5

In order to be considered trained in the use of Restrictive Procedures, staff must complete training in:

- Nonviolent Crisis Intervention, developed by the Crisis Prevention Institute: 8 hours of initial training; 3-4 hour refresher training every other school year. Refresher Training options Include:
 - Basic Refresher Training in Nonviolent Crisis Intervention
 - Understanding Goals, Power and Relationships
 - Establishing Therapeutic Rapport
 - How-To Strategies for Dealing With Challenging Individuals
 - Enhancing Verbal Skills
 - Breaking Up Fights
 - Refresher – Autism Spectrum Disorders
 - Restrictive Procedures Documentation and Skills Training

A master list of staff trained in the use of Restrictive Procedures will be maintained and updated quarterly. Staff may inquire about their current certification in the use of Restrictive Procedures.

Procedures to follow if a Restrictive Procedure is used:

1. Parent Notification: School staff shall make reasonable efforts to notify the parent on the same day a restrictive procedure is used on the student, or if the school is unable to provide same-day notice, notice is sent to the parent by written or electronic means within two days (48 hours) of the procedure being used or as otherwise indicated in the student's IEP.
2. Reporting of Use of Restrictive Procedure: Either the staff person who implements or the staff person who oversees the use of a restrictive procedure shall inform the building administrator of the use of the restrictive procedure as soon as possible and shall complete the online restrictive procedures form within two days (48 hours). The restrictive procedures report form must include:
 - A description of the incident that led to the use of the restrictive procedure;
 - State why a less restrictive measure failed or was determined by staff to be inappropriate or impractical;
 - State the time the restrictive procedure began and the time the student was released from the hold; and
 - Give a brief record of the student's behavioral and physical status during and after the use of the restrictive procedure.
3. Staff Debriefing after Use of Restrictive Procedure: Staff involved in the use of the restrictive procedure are expected to debrief after every use of a restrictive procedure. This debriefing could occur during completion of the online restrictive procedures reporting form.
4. Including Plan for Use of a Restrictive Procedure in Student's IEP: A student's IEP team may include a plan for using a restrictive procedure in the student's IEP but may only use the restrictive procedure in situations that constitute an emergency. If a plan is included in the student's IEP, the IEP must also indicate how the parent wants to be notified when a restrictive procedure is used. The district must review use of restrictive procedures at a student's annual IEP meeting when the student's IEP provides for using restrictive procedures in an emergency.
5. Use of Restrictive Procedure Twice in 30 Days: If a restrictive procedure is used on two separate days within 30 calendar days or if a pattern of use of the restrictive procedure emerges and the student's IEP or behavior intervention plan does not provide for using restrictive procedures in an emergency, the district must hold an IEP meeting within ten calendar days after district staff use the second restrictive procedure. The parent or the district may call this meeting after restrictive procedures have been used. At this meeting the team must:
 - Review the student's Functional Behavior Assessment (FBA);

- Review other data connected to the behavior(s) that prompted the use of the restrictive procedure;
- Consider developing additional or revised positive behavioral interventions and supports;
- Consider actions that could be taken to reduce the use of restrictive procedures;
- Consider developing a Behavior Intervention Plan (BIP) or modifying an existing BIP or consider other revisions to the student's IEP;
- Review any known medical or psychological limitations, including any medical information the parent provided voluntarily, that contraindicate the use of a restrictive procedure; and
- Consider whether to prohibit a restrictive procedure and, if so, document any prohibition in the student's IEP.

If the district uses restrictive procedures with a child on 10 or more cumulative school days during the same school year, the team, as appropriate, must consult with other professionals working with the student; consult with experts in behavior analysis, mental health, communication, or autism; consult with culturally competent professionals; review existing evaluations, resources, and successful strategies; or consider whether to reevaluate the student.

Minn. Stat. § 125A.0942, subd. 2(d).

Prohibited Procedures

Saint Paul Public Schools will never use the following prohibited procedures on a student:

- Engaging in conduct prohibited under section 121A.58 (corporal punishment)
- Totally or partially restricting a student's senses as punishment
- Presenting an intense sound, light, or other sensory stimuli using smell, taste, substance, or spray as punishment
- Requiring a student to assume and maintain a specified physical position, activity, posture that induces physical pain
- Denying or restricting a student's access to equipment or devices such as walkers, wheelchairs, hearing aids, and communication boards that facilitate the student's functioning, except when temporarily removing the equipment or device as needed to prevent injury to the student or others or serious property damage to the equipment or device, in which case the equipment or device shall be returned to the student as soon as possible.
- Interacting with a student in a manner that constitutes sexual abuse, neglect, or physical abuse under section 626.556 (reporting maltreatment of minors)
- Withholding regularly scheduled meals or water
- Denying access to bathroom facilities
- Physical holding that impairs a student's ability to breathe

Minn. Stat. 125A.0942, Subd. 4(1-9)

ADDENDUM B: Restrictive Procedures Quick Guide

Restrictive Procedures Standards and Requirements – Quick Reference Sheet

Staff Training Requirements:

- Staff **MUST** be trained in Nonviolent Crisis Intervention and Restrictive Procedures **PRIOR** to the use of any physical hold with a student.
- Staff must maintain their certification status by attending a refresher course every other school year. Courses are listed on PD Express. Any course listed under SPED with “Nonviolent Crisis Intervention and Restrictive Procedures” in the title is considered a refresher course to maintain certification.

Minnesota State Statute:

- Restrictive Procedures may only be used in an EMERGENCY situation where there is imminent danger of physical harm to the student or others.
- Restrictive Procedures regulations apply only to special education students.
- Saint Paul Public Schools no longer allows the use of seclusion. Physical holding is the only restrictive procedure to be used in SPPS.
- Use of Restrictive Procedures must be documented into the SPPS Restrictive Procedures website within two days (48 hours): The website can be found at it.spps.org> Custom Websites > Restrictive Procedures

Special Education and Due Process Considerations

- A student must have a Functional Behavioral Assessment in place prior to the use of Restrictive Procedures.
- Parents must be notified of the use of a restrictive procedure as quickly as possible, but within two days (48 hours) of use. Notification will occur by the method indicated by parents and documented on the student’s IEP.
- The team must conduct a post-use debriefing session each time a Restrictive Procedure is used to review the details of the physical hold and to plan for ways to reduce the use of Restrictive Procedures in the future.
- An IEP team meeting must be convened under the following circumstances:
 - If a Restrictive Procedure is used on two separate days within a 30 calendar day period, OR
 - If a pattern of use emerges and the student’s IEP does not provide for using Restrictive Procedures in an emergency, OR
 - Upon parent request or district request following the need to use a Restrictive Procedure
- If the district uses restrictive procedures with a child on 10 or more cumulative school days during the same school year, the team, must consult with other professionals working with the student; consult with experts in behavior analysis, mental health, communication, or autism; consult with culturally competent professionals; review existing evaluations, resources, and successful strategies; or consider whether to reevaluate the student

ADDENDUM C: Reasonable Force Standard (MN Statute 121A.582)Subdivision 1. REASONABLE FORCE STANDARD.

(a) A teacher or school principal, in exercising the person's lawful authority, 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.

(b) A school employee, school bus driver, or other agent of a district, in exercising the person's lawful authority, may use reasonable force when it is necessary under the circumstances to restrain a student or prevent bodily harm or death to another.

(c) Paragraphs (a) and (b) do not authorize conduct prohibited under sections 121A.58 and 121A.67.

Subdivision 2. Civil liability.

(a) A teacher or school principal who, in the exercise of the person's lawful authority, uses reasonable force under the standard in subdivision 1, paragraph (a), has a defense against a civil action for damages under section 123B.25.

(b) A school employee, bus driver, or other agent of a district who, in the exercise of the person's lawful authority, uses reasonable force under the standard in subdivision 1, paragraph (b), has a defense against a civil action for damages under section 123B.25.

Subdivision 3. Criminal prosecution.

(a) A teacher or school principal who, in the exercise of the person's lawful authority, uses reasonable force under the standard in subdivision 1, paragraph (a), has a defense against a criminal prosecution under section 609.06, subdivision 1.

(b) A school employee, bus driver, or other agent of a district who, in the exercise of the person's lawful authority, uses reasonable force under the standard in subdivision 1, paragraph (b), has a defense against a criminal prosecution under section 609.06, subdivision 1.

Subdivision 4. Supplementary rights and defenses.

Any right or defense in this section is supplementary to those specified in section 121A.58, 121A.67, 123B.25, or 609.06, subdivision 1.

609.06 AUTHORIZED USE OF FORCE.Subdivision 1. When authorized.

Except as otherwise provided in subdivision 2, reasonable force may be used upon or toward the person of another without the other's consent when the following circumstances exist or the actor reasonably believes them to exist:

(1) when used by a public officer or one assisting a public officer under the public officer's direction:

- (a) in effecting a lawful arrest; or
- (b) in the execution of legal process; or
- (c) in enforcing an order of the court; or
- (d) in executing any other duty imposed upon the public officer by law; or

(2) when used by a person not a public officer in arresting another in the cases and in the manner provided by law and delivering the other to an officer competent to receive the other into custody; or

(3) when used by any person in resisting or aiding another to resist an offense against the person; or

(4) when used by any person in lawful possession of real or personal property, or by another assisting the person in lawful possession, in resisting a trespass upon or other unlawful interference with such property; or

- (5) when used by any person to prevent the escape, or to retake following the escape, of a person lawfully held on a charge or conviction of a crime; or
- (6) when used by a parent, guardian, teacher, or other lawful custodian of a child or pupil, in the exercise of lawful authority, to restrain or correct such child or pupil; or
- (7) when used by a school employee or school bus driver, in the exercise of lawful authority, to restrain a child or pupil, or to prevent bodily harm or death to another; or
- (8) when used by a common carrier in expelling a passenger who refuses to obey a lawful requirement for the conduct of passengers and reasonable care is exercised with regard to the passenger's personal safety; or
- (9) when used to restrain a person who is mentally ill or mentally defective from self-injury or injury to another or when used by one with authority to do so to compel compliance with reasonable requirements for the person's control, conduct, or treatment; or
- (10) when used by a public or private institution providing custody or treatment against one lawfully committed to it to compel compliance with reasonable requirements for the control, conduct, or treatment of the committed person.

609.379 PERMITTED ACTIONS.

Subdivision 1. Reasonable force.

Reasonable force may be used upon or toward the person of a child without the child's consent when the following circumstance exists or the actor reasonably believes it to exist:

- (a) when used by a parent, legal guardian, teacher, or other caretaker of a child or pupil, in the exercise of lawful authority, to restrain or correct the child or pupil; or
- (b) when used by a teacher or other member of the instructional, support, or supervisory staff of a public or nonpublic school upon or toward a child when necessary to restrain the child from self-injury or injury to any other person or property.