



BlueSky Online School Restrictive Procedures Policy

In accordance with Minn. Stat. §§ 125A.094 and 125A.0942, every school district is required to develop and make publicly accessible in an electronic format on a school or district website or make a paper copy available upon request a plan that discloses its use of restrictive procedures with special education students. The plan must list the restrictive procedures that the school district intends to use; describe how the school district will implement a range of positive behavior strategies and provide links to mental health services, describe how the school district will monitor and review the use of restrictive procedures, including post-use debriefings and convening 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 schoolwide and for individual children the number and types of injuries, if any, resulting from the use of restrictive procedures, whether restrictive procedures are used in non-emergency 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 any staff members who will be using restrictive procedures have completed to show they have the skills set out in Minn. Stat. § 125A.0942, subd. 5.

Restrictive procedures

BlueSky Online School uses restrictive procedures only in emergency situations. “Emergency” means a situation where immediate intervention is needed to protect the student or other individuals from physical injury. “Emergency” does not mean circumstances such as: a child 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; a child who does not respond to a staff person’s request unless failing to respond would result in physical injury to the child or other individual; or an emergency incident has already occurred and no threat of physical injury currently exists. Restrictive procedures must not be used to punish or otherwise discipline a child.

Restrictive Procedures Used

The restrictive procedure that BlueSky Online School staff may use in an emergency situation is physical holding. Physical holding is a physical intervention intended 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. The physical holding must: (1) be the least intrusive intervention that effectively responds to the emergency; (2) not be used to discipline a noncompliant student; (3) end when the threat of harm ends and the staff determines the child can safely return to the classroom or activity; (4) be observed directly by staff while the physical

holding is being used; and (5) be documented as soon as possible after the incident concludes by the person who implemented the physical hold or oversaw the hold.

Restrictive Procedures Not Used

Blue Sky Online School **does not use the restrictive procedures of:**

Seclusion confining a student alone in a room from which egress is barred, including by an adult locking or closing the door in the room or preventing the student 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 if the student is not confined alone in a room from which egress is barred.

Mechanical Restraint: Physical holding does not include the application of mechanical restraints for bus transportation, sensory needs, or medical needs as these procedures are documented in the student's Individual Family Service Plan (IFSP) or Individual Education Program (IEP).

BlueSky Online School will Implement a Range of Positive Behavior Strategies and Links to Available Mental Health Services

BlueSky Online School will only use physical holds in emergency situations. School staff will implement a range of positive behavior strategies as a proactive approach to teaching positive behavior skills to students, thereby reducing students exhibiting challenging behaviors and the need for the use of physical holds. These positive behavior strategies include: redirection, correction, staff escort to breakout space (online or in person), allowing students to go to a safe place to relax/regroup (online or in person), planned ignoring, conflict mediation, verbal de-escalation, process with staff, exit other peers, offer alternative activities, offer sensory tools, social stories, staff hand off, proximity control (when in person).

To obtain service or a referral to a service provider, the family should contact their primary care clinic, physician or insurance provider. BlueSky Online Social Workers will provide mental health information in the county of residence for students and families.

How BlueSky Online School will monitor and review the use of restrictive procedures by BlueSky Online School staff

Who may use restrictive procedures - Restrictive procedures may be used in emergency situations only by the following staff who have been properly trained in the skills and knowledge areas described in Minn. Stat. § 125A.0942, subd. 5, which are set out subsequently in this plan: licensed special education teacher, school social worker, school principal, school psychologist, other licensed education professional, paraprofessional as described in Minn. Stat. § 120B.363, and mental health professional covered by Minn. Stat. § 245.4871, subd. 27.

Reasonable Force

According to Minn. Stat. §121A.582 (Attachment 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. 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.

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 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 administration of the use of the restrictive procedure as soon as possible and shall complete the restrictive procedures report form no later than the next working day. (See sample reporting form in Attachment B.) The restrictive procedures report form must include: a. a description of the incident that led to the use of the restrictive procedure; b. state why a less restrictive measure failed or was determined by staff to be inappropriate or impractical; c. state the time the restrictive procedure began and the time the student was released from the hold; and d. 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: The building administrator or his/her designee and the staff involved in the use of the restrictive procedure are expected to debrief after every use of a restrictive procedure. This debriefing could include completing and discussing the 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 Procedures on Two School Days in 30 Calendar Days: If restrictive procedures are used on two separate school 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 restrictive procedures on the second day. This meeting can also be requested by the parent or the district after restrictive procedures have been used. At this meeting the team must: a. review the student's Functional Behavior Assessment (FBA); b. review other data connected to the behavior(s) that prompted the use of the restrictive procedure; c. consider developing additional or revised positive behavioral interventions and supports; d. consider actions that could be taken to reduce the use of

restrictive procedures; e. consider developing a Behavior Intervention Plan (BIP) or modifying an existing BIP or consider other revisions to the student's IEP; f. review any known medical or psychological limitations, including any medical information the parent provided voluntarily, that contraindicate the use of a restrictive procedure; and g. consider whether to prohibit a restrictive procedure and, if so, document any prohibition in the student's IEP. If the IEP team determines that existing interventions and supports are ineffective in reducing the use of restrictive procedures or the district uses restrictive procedures on a child on 10 or more school days during the same school year, the team, as appropriate, either 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.

6. Oversight Committee: At least quarterly, the District will convene an oversight committee which will include the following individuals: Mental Health Professional, Expert in Positive Behavior Strategies (e.g. Dean of Students, special education teacher licensed in EBD), Special Education Administrator, and General Education Administrator. This oversight committee will review the aggregate data on the use of restrictive procedures in the District looking: for 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; at the number of times a restrictive procedure is used school wide and for individual students; at the number and types of injuries, if any, resulting from the use of restrictive procedures; at whether restrictive procedures are used in non-emergency situations; at whether additional staff training on behavior interventions and restrictive procedures is needed; and at proposed actions to minimize the use of restrictive procedures.

Description of Staff Training

Staff members who use restrictive procedures shall complete training in the following skills and knowledge areas: 1. positive behavior 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 student'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. district policies and procedures for timely reporting and documenting each incident involving use of a restricted procedure; and 12. school wide programs on positive behavior strategies. The District will keep a list of the trainings offered in the District each year to staff to meet the twelve skill and knowledge areas described above. The District will also keep documentation of the staff members who attend those trainings.

Prohibited Procedures

District staff members are prohibited from using the following actions or procedures: 1. engaging in corporal punishment which is defined by Minnesota statute to be conduct involving: (1) hitting or spanking a person with or without an object; or (2) unreasonable physical force that causes bodily harm or substantial emotional harm. 2. requiring a student to assume and maintain a specified physical position, activity, or posture that induces physical pain; 3. totally or partially restricting a student's senses as punishment; 4. presenting an intense sound, light, or other sensory stimuli using smell, taste, substance, or spray as punishment; 5. denying or restricting a student's access to equipment and devices such as walkers, wheelchairs, hearing aids, and communication boards that facilitate the student's functioning, except when the temporary removal of the equipment or device is needed to prevent injury to the student or others or serious damage to the equipment or device, in which case the equipment or device shall be returned to the student as soon as possible; 6. interacting with a student in a manner that constitutes sexual abuse, neglect, or physical abuse as those terms are defined in Minn. Stat. § 626.556; 7. withholding regularly scheduled meals or water; 8. denying access to bathroom facilities; 9. physical holding that restricts or impairs a student's ability to breathe, restricts or impairs a student's ability to communicate distress, places pressure or weight on a student's head, throat, neck, chest, lungs, sternum, diaphragm, back, or abdomen, or results in straddling a child's torso; and 10. prone restraints. Nothing in this plan precludes the use of reasonable force as allowed under Minn. Stat. §§ 121A.582, 609.06, subd. 1, and 609.379 (these laws are set out in Attachment A).

Attachment A

121A.582 STUDENT DISCIPLINE; REASONABLE FORCE.

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 section 125A.0942.

Subd. 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.

Subd. 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.

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 with a mental illness or a person with a developmental disability 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.

Subd. 2. Deadly force used against peace officers.

Deadly force may not be used against peace officers who have announced their presence and are performing official duties at a location where a person is committing a crime or an act that would be a crime if committed by an adult.

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.

Subd. 2. Applicability.

This section applies to sections 260B.425, 260C.425, 609.255, 609.376, 609.378, and 626.556.

Attachment B

Restrictive Procedure Reporting Form

Restrictive Procedure Form: This form is completed whenever a restrictive procedure is used, as described in Minn. Stat. § 125A.0942. This form is to be filed in the Student's Due Process file. This form is located in SpEd Forms and will be provided to parents.

Student Name: _____ Grade: ___ Age: ___ ID No.: _____
Student's Disability: Primary: _____ Secondary _____ Gender: F / M
Race/Ethnicity of student: ___ American Indian ___ Asian ___ Black ___ Hispanic ___ White ___ Other ___
Date restrictive procedure used: _____ Time: _____
Person(s) using the hold: _____ Job Title: _____
_____ Job Title: _____
Person completing reporting form: _____ Date form completed: _____

Was physical holding used to protect student or others from physical injury? Yes No
Description of the emergency situation:
Description of the incident that led to physical holding:
Description of the physical holding and a brief description of the student's behavioral and physical status:
Was physical holding the least intrusive intervention to effectively respond to the emergency?
Explain why a less restrictive intervention failed or was determined to be inappropriate or impractical:
Did the physical holding end when the threat of harm ended and staff determined that the student could safely return to the classroom or activity: Yes No
Explain:

Did staff directly observe the child during the physical hold: Yes No

Explain:

Did staff sustain an injury **as a result of** the physical holding: Yes No

Did the student sustain an injury **as a result of** the physical holding: Yes No

Date of Procedure:

Type of Procedure:

Time hold began: _____ **Time hold released:** _____ **Total time of hold:** _____

Student's behavioral and physical status during hold:

Was the student removed from school by a police officer at the request of school personnel: Yes No

Parent/Guardian notified on (date): _____ **by** ___ phone ___ email ___ Notebook
___ Other method agreed upon by parent and included in student's IEP: _____

Written Notice sent to parent on _____.

Building Administrator/Designee notified of use of restrictive procedure on:
_____ at _____ a.m./p.m.

Name of Building Administrator/Designee notified: _____

Debriefing of use of restrictive procedure held on: _____

Attended by:

What incidents led up to the use of the hold?

Why were less restrictive measures determined inappropriate or impractical?

