



Applicable Legal Standards

20 USC 1400 Individuals With Disabilities Education Improvement Act

Minnesota Statute 3525.0850 Regulated Interventions

In America, they have begun to talk of troubled children as "throw-away" children. Who can be less fortunate than those who are thrown away?

Thom Garfat of Canada
Presentation to the South African Child Care Assoc.

Children who oppress their caregivers with severe demands for attention are often youngsters who have suffered from too little individual attention.

Maier, 1987

This Administrative Guideline establishes practices for the development of behavior intervention plans and emergency procedures that incorporate the use of regulated and conditional procedures under Minnesota Rule 3525.0850. This guideline takes as fundamental the principle of individual autonomy and independence, and that violation of either principle in the pursuit of improved student outcomes ought to be undertaken reluctantly and only after exhausting other non-coercive methods.

For Persons

The *Belmont Report: Ethical Principles And Guidelines For The Protection Of Human Subjects Of Research* (Federal Register, 1976) articulated the first nationally recognized set of ethical practices regarding use of human subjects in medical and behavioral research. While this Administrative Guideline addresses practices that, while supported by research, are part of standard practice in education, the ethical principles set forth in the Belmont Report apply here. Specifically, the section of the Belmont Report addressing *Respect For Persons* must serve as a guiding principle when designing programs incorporating use of aversive interventions. The section of the Belmont Report pertaining to this Guideline is quoted directly:

Respect for persons incorporates at least two ethical convictions: first, that individuals should be treated as autonomous agents, and second, that persons with

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diminished autonomy are entitled to protection. The principle of respect for persons thus divides into two separate moral requirements: the requirement to acknowledge autonomy, and the requirement to protect those with diminished autonomy.

An autonomous person is an individual capable of deliberation about personal goals, and of acting under the direction of such deliberation. To respect autonomy is to give weight to autonomous persons' considered opinions and choices, while refraining from obstructing their actions, unless they are clearly detrimental to others. To show lack of respect for an autonomous agent is to repudiate that person's considered judgments, to deny an individual the freedom to act on those considered judgments, or to withhold information necessary to make a considered judgment, when there are no compelling reasons to do so.

However, not every human being is capable of self-determination. [*Indeed, most cultures limit the extent of self-determination in children who have not yet attained the age of reason.*] The capacity for self-determination matures during an individual's life, and some individuals lose this capacity wholly or in part, because of illness, mental disability, or circumstances that severely restrict liberty. Respect for the immature and the incapacitated may require protecting them as they mature or while they are incapacitated.

Some persons are in need of extensive protection, even to the point of excluding them from activities which may harm them; other persons require little protection beyond making sure they undertake activities freely and with awareness of possible adverse consequences. The extent of protection afforded should depend upon the risk of harm, and the likelihood of benefit. The judgment that any individual lacks autonomy should be periodically reevaluated, and will vary in different situations.

While Local Education Agencies (LEA) are granted *en local parentis*, and this authority is partly the basis of Minnesota Rules permitting a limited use of aversive procedures with children, having the authority and exercising the authority frequently involves choices and preferences for various kinds practice. Effective educational research-based practices are available to school personnel, and it is essential to minimize use of interventions that violate the Respect For Persons doctrine. This means encouraging the use of positive behavioral supports that modify critical features of the student's learning environment when promoting academic and social gains.

Specifically, Minnesota statute and rule requires our practices to:

1. promote the use of positive approaches and must not encourage or require the use of aversive or deprivation procedures;
2. require the planned application of aversive and deprivation procedures be a part of an individual education plan (IEP);

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3. require parents or guardians to be notified after the use of aversive or deprivation procedures in an emergency;
4. establish health and safety standards for the use of time-out procedures that require a safe environment, continuous monitoring of the child, ventilation, and adequate space; and
5. contain a list of prohibited procedures.

Practices Not Regulated By This Rule and Guideline

Instructional practices commonly used in educational settings not regulated by this guideline include:

1. corrective feedback or prompts used to limit or prevent errors – includes verbal, physical, visual prompts;
2. physical assistance to facilitate completion of a response with no physical resistance on the part of the student;
3. delivery of positive consequences contingent upon a emission of a targeted behavior;
4. temporary interruptions in instruction or activity in which a student is directed to leave an activity for a brief period of time to a location where the student can observe the ongoing activity and see others receiving positive consequences for appropriate behaviors [contingent observation];
5. temporary interruptions in instruction or activity when a student is sent to a different location under appropriate supervision;
6. temporary withdrawal of goods, services or activities as a result of the student's inappropriate use of these; and
7. medically prescribed restraints for position, maintaining posture or aiding in the acquisition of self-help or other functional skills.

This list is not exhaustive and may include other practices provided these practices are consistent with the autonomy and independence principles identified above.

Non Aversive Interventions

The Rule requires IEP teams to address concerns related to the student's social behavior using proactive, positive treatment strategies. A minimum of two *bona fide* interventions supported by documentation must have been attempted prior to consideration of conditional procedures.

Conditional Procedures

Conditional procedures are those educational practices permitted by Minnesota Rule 3525.0850, but whose incorporation into a student's Individual Education Plan requires written consent by the student's parent or guardian. These practices are subject to limits and restrictions because of the inherent conflict with the doctrine of Respect For Persons.

The following procedures are *Conditional Procedures* regulated by this Guideline and MN Rule:

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1. **Manual restraint** – physical intervention intended to hold a person immobile or limit a person's movement by using body contact as the only source of physical restraint. *M.R. 3525.0200 Subp. 8e.*
2. **Mechanical or Locked Restraints** – the use of devices such as mittens, straps, or restraint chairs to limit a person's movement or hold a person immobile as an intervention precipitated by the person's behavior. Mechanical restraint applies to uses intended to prevent injury with persons who engage in behaviors such as head-banging, gouging, or other self-injurious actions that result in tissue damage and medical problems. Mechanical restraint does not apply to restraint used to treat a person's medical needs or to position a person with physical disabilities. *M.R. 3525.0200 Subp. 8f.*
3. **Time-Out for Seclusion** – Time-out for seclusion involves procedures which place the student in a specially designated isolation room or similar space whose construction is strictly regulated by Minnesota Department of Administration's Building Codes and Standards Division (BCSD). *M.R. 3525.0200 Subp. 25b.*

The space used as the seclusion time-out area must meet the following conditions:

- a. shall have an electronic locking system that locks the door only so long as the persons observing the student in the locked area holds the lock in place. Should the person leave the area or a power failure happen, the door shall immediately become unlocked;
 - b. specific criteria for returning the pupil to the routine activities and regular education environment;
 - c. an evaluation to determine whether seclusion is contraindicated by psychological or physical health reasons;
 - d. afford provisions for the pupil to be continuously monitored by trained staff;
 - e. **provide adequate access to drinking water and to a bathroom for a time-out that exceeds 15 minutes;**
 - f. document of the length of time spent in each time-out procedure and the number of occurrences each day;
-
- g. be a safe environment for the pupil where all fixtures are tamper proof, walls and floors are properly covered, and control switches are located immediately outside the room;
 - h. an observation window or other device to permit continuous monitoring of the pupil;
 - i. a space that is at least five feet by six feet or substantially equivalent to these dimensions and be large enough to allow the pupil to stand, to stretch the pupil's arms, and to lie down;
 - j. be well-lighted, well-ventilated, adequately heated, and clean; and
 - k. all applicable fire and safety codes

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4. **Delay of Normally Available Goods and Services** – temporary delay or withdrawal of regularly scheduled meals or water, or bathroom breaks, that do not exceed 30-minutes.

Prohibited Procedures.

Prohibited procedures are interventions that may not be used in schools with any student under any circumstance by school district employees, contracted personnel, and volunteers. The procedures or actions listed in items (1) to (9) below are prohibited:

1. corporal punishment as defined in Minnesota Statutes, section 121A.58;
2. requiring a pupil to assume and maintain a specified physical position, activity, or posture that induces physical pain as an aversive procedure;
3. presentation of intense sounds, lights, or other sensory stimuli as an aversive stimulus;
4. use of noxious smell, taste, substance, or spray as an aversive stimulus;
5. denying or restricting a pupil's access to equipment and devices such as hearing aids and communication boards that facilitate the person's functioning except temporarily when the pupil is perceived to be destroying or damaging equipment or devices;
6. faradic skin shock;
7. totally or partially restricting a pupil's auditory or visual sense not to include study carrels when used as an academic intervention;
8. withholding regularly scheduled meals or water; and
9. denying a pupil access to toilet facilities.

Development and Content of Individual Education Plan M.R. 3525.2900 Subp 5.A.(1)

Conditional procedures may only be included as part of a pupil's IEP or in an emergency situation according to part 3525.0200. In order to utilize a conditional procedure, the IEP team must:

1. complete a *functional behavior assessment* in which the disturbing or target behaviors and alternative behaviors are defined, the setting conditions and occasions for the identified target and alternative behaviors are specified, the observed consequences of the target and alternative behaviors are described, and the apparent functions these behaviors are established;
2. identify at least two positive interventions implemented and the effectiveness of each;
3. design and implement regulated interventions based on present levels of performance, needs, goals and objectives, and document in the IEP; and
4. shall develop and write a Behavior Intervention Plan (BIP) following the guidelines below.

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Behavioral Interventions not covered in an IEP.

All behavioral interventions not covered in the IEP must be consistent with the district's discipline policy. Continued and repeated use of any element of a district's discipline policy must be reviewed in the development of the individual pupil's IEP and consideration given to the development of a BIP should repeated use of the district's discipline policy result in an unacceptable continuation of the disturbing behavior patterns or a denial of FAPE.

Emergency Intervention

If an emergency intervention is used twice in a month or a pupil's pattern of behavior is emerging that interferes with the achievement of the pupil's educational goals and objectives, a team meeting must be called to determine if the pupil's IEP is adequate, if additional assessment is needed, and, if necessary, to amend the IEP. Districts may use conditional procedures in emergencies until the IEP team meets, provided the emergency measures are deemed necessary by the district to protect the individual pupil or others from harm. The IEP team shall meet as soon as possible, but no later than five school days after emergency procedures have commenced.

Persons implementing emergency procedures shall complete the *Emergency Use of Conditional Procedures Form* and make all required notifications at the earliest possible moment. District administration and parents must be notified immediately when a regulated procedure is used in an emergency situation by district personnel.

Development of the Behavior Intervention Plan

Support and Consultation

Special education case managers and IEP Team members considering the inclusion of regulated behavior interventions as part of Positive Behavior Support Plan, are encouraged to consult with the Social Behavior Collaborative Planner or the Collaborative Planner, Behavior Analyst at the Ed. District. Contact the Social Behavior Collaborative Planner: 320-358-3616.

Responsibilities

The student's case manager is responsible for coordinating the development and writing of the BIP in consultation with the school psychologist. Once completed the BIP must be presented orally to the parent or guardian and informed written consent obtained prior to the implementation of the plan.

Development of the Behavior Intervention Plan.

The following are directions for developing a Behavior Intervention Plan. The BIP is an essential tool for communicating the intent of the IEP Team members to all persons involved in the delivery of these regulated procedures. It must detail the target of the intervention plan, the outcomes sought, how progress will be measured and charted, what environment modifications are sought, what skills need be taught, and what motivational and consequence strategies will apply. Additionally, the BIP must provide exacting detail concerning the use of

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conditional procedures as outlined below. Finally, separate informed written consent must be obtained from the student's parent(s) or guardian prior to attaching the BIP to the IEP. When a Behavior Intervention Plan (BIP) is needed, the staff should use BIP Form (CMF 021–95) found in **Appendix 1 of this section**.

Complete the following sections of the BIP:

Statement of the Problem

Provide a description of the problem based on the functional analysis and provide a rationale for the proposed plan.

Target Behavior(s)

Specification of the behavior(s) to be changed, the baseline date(s), and a summary of data by way of explanation or chart. What behaviors are legitimate entities for change using conditional procedures?

Replacement Behavior(s)

Specification of the replacement target behavior(s), the baseline date(s), and summary of data by way of explanation or chart.

Avoid selecting replacement target behaviors that are mirror images or inverses of the target behavior. For example, if the target behavior is noncompliance, do not chose compliance as the replacement target behavior. Identify, instead, the general response class as the target for skill development. For example, a replacement behavior for noncompliance might be following instructions, accepting criticism, or disagreeing appropriately. Noncompliance is vague and may be a generalized response to a wide variety of setting conditions and antecedents and it is, therefore, necessary to identify the skill(s) the student requires to meet the moment to moment expectations.

Goals and Objectives

Specify the IEP goal and objectives pertinent to the treatment plan.

The IEP must contain at least one goal addressing the social behavior skill area and as many treatment objectives as necessary to specify the intended treatment effects. While not incumbent on program authors, it is recommended that treatment objectives be short-term and geared to expect and produce fairly rapid changes in behavior. While the literature generally supports the notion that it will take 18 to 24 months of consistent intervention to produce a permanent change in behavior, time frames for treatment objectives ought to be kept short so as to engage frequent review and program change.

Behavior Change Procedures

Antecedent and Setting Conditions

Describe the modifications made in the setting conditions and antecedent events thought necessary to lower the probability of behavior onset.

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Modifications to setting conditions, the conditions that define the context in which behavior happens, may provide an opportunity to assist a student to successfully negotiate difficult times of the day, classes that hold low appeal, and on-going exchanges with teachers and peers. Modifications to antecedent conditions, events that serve as discriminative stimuli for changes in rate of responding, represent some of the most potent adjustments available to staff members. Many changes in antecedent conditions are fairly economical and easy to achieve, usually with a short time given to training and practice, frequently result in rapid changes in student behavior. For example, the way in which instructions and feedback is given to a student often changes the likelihood of compliance; use of preventive teaching to help a student practice using a skill prior to engaging an upcoming situation often lowers social skill error rates.

Provided the expectations match the student's ability, Teams should not reduce the academic and social behavior expectations. Teams should consider, instead, either keeping their expectations the same or increasing the exposure of the student to difficult situations to provide an opportunity for more teaching.

Social Skills Acquisition

Identify the social/behavioral skills (these ought to be the same as or closely related to the 'replacement behaviors') that will be taught or strengthened.

A key question to ask and answer in any functional analysis of student performance with whether the student knows how to perform the skills required by the situation in on-going challenging behavior happens. Consider adding a skill training component even if the student obviously knows how which means the student has performed the skill fluently in various situation. There are numerous excellent social skill curricula, but the key to their effective use depends on (1) introducing a skill and providing a rationale for its use, (2) training the skill to criterion, (3) practicing the skill, (4) using the skill in an increasing number of environments, and (5) in vitro social skill error correction.

Motivational Plan

Identify the strategies for encouraging student cooperation and participation. Include specifics concerning the use of behavior specific praise and it's frequency, contracting, motivational systems, mentors, and so on.

The purpose of the activities in this section is relationship building. Considerable effort and time need be give to identifying student strengths on which the team can build. The team must insist on the 4-to-1 reinforcement rule and monitor to ensure that this ratio of reinforcers to aversive consequences is maintained. If response cost contingencies are part of the program plan, detail them in this section.

Behavior Reduction Procedures

Identify the behavior reduction procedures and the exact conditions under which *conditional procedures* are used. State how these procedures will be implemented, the maximum time

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per episode a procedure may be used, the criteria for ending the use of the conditional procedure (for that episode). Finally, identify conditions for which this procedure must be suspended or not used, and records that must be completed following each use.

Use this section to provide the exact conditions under which use of the conditional procedure is required. Identify the de-escalation procedures if therapeutic intervention is part of the contingency. Specify precisely how a student is to be physically escorted, restrained, and/or secluded. Stipulate the amount of time for holding or seclusion and the criteria for terminating the intervention. Provide for on-going monitoring if necessary with provisions for fading the monitor.

The decision to intervene in a student's life with intrusive conditional procedures should be reserved for a limited set of behaviors and circumstances. Safety and uncontrolled behavior are possibly the only legitimate targets behaviors. But in so saying, it must be emphasized that the IEP team is final arbiter in this regard. The matter must be approached cautiously and address the following concerns:

- a. Age of the student — severely aggressive and noncompliant students of elementary school age may respond quickly to a combination of modifications to setting and antecedent conditions, behavior specific praise, skill training for appropriate social behavior, precise error corrections, and brief restraint or seclusion time-out. As students approach middle school age and beyond, staff members must weigh heavily risks and potential adverse consequences that attach to the use of seclusion time-out, physical escorts, and physical restraint. IEP teams should be wary of physical interventions with older students not only because of the risk of counter-control (i.e., acts of aggression to staff), but, more importantly, because students frequently do not discriminate between the consequence and the giver of consequences.
- b. History and life experience of the student: it is necessary to learn from parents and the student about the student's life experience. What are their expectations, their concerns, and their experiences growing up together? How have the parents taught their child to follow their rules — have their rules been fairly clear and consistently enforced? Has the student had a history of physical or sexual abuse, or chemical dependency? This is of course not an exhaustive list of questions, but, clearly, IEP teams must cautiously approach the use of conditional procedures where the student's life history contraindicates intrusive interventions.
- c. Severity of misconduct: At what point or level of severity do teams decide to intervene using conditional procedures?
 - i. Severity or intensity of student behavior is a subjective matter and depends on the tolerances of staff members and administrators. Frustration with students who repeatedly disturb the learning of others often results in treatment choices that reflect the values and punishment preferences of the community rather than the needs of the student. Where mild misconduct is subject to too punitive consequences or when staff and administrators act on intense, unsafe student behavior inconsistently, little hope for effective change in the student exists.

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Frequently, students with long-term exposure to shifting tolerances freely engage in high frequency, intense escape or avoidance activities.

- ii. Care must be taken in designing and implementing a program using conditional procedures with students who have histories of aversive interactions with adults as interventions that propose to increase aversiveness or restrictiveness. Such proposals are likely to meet with failure and may generate more extreme forms of counter-counter and counter-aggression.

Review the following appendices relating to the use of seclusion, manual restraint and deprivation of normally available goods and services.

- a. Use of Behavioral Interventions with Pupils (M.R. 3525.0200)
- b. Standards and Practices: Use of Seclusionary Time-Out
- c. Standards and Practices: Use of Physical Escorts, Manual Restraint, and Mechanical Restraint

Data Collection Method

Specify the method of data collection and schedules for monitoring program progress. At least two data collection systems need be maintained.

1. A log of all uses of seclusion time-out (see Appendix for a form)
2. A recording system that documents the change in the replacement behavior.
3. Both recording systems must be archived, as these are legal documents.
4. All relevant program outcomes must be accompanied by properly constructed graphs that have been correctly annotated to document pertinent program changes.

Schedule Intervention Review

Programs using conditional procedures need to be reviewed frequently — more so in the beginning phases. Establish a schedule to review data and discuss possible changes or improvements in the intervention plan.

Cautions and Side Effects

Identify the cautions and side effects associated with the use of the conditional procedure and identify the potential benefits to the student.

All aversive procedures generate side effects. Identify several of the most obvious, but also attend to those side-effects that are likely to arise because of the student's history. Conversely, briefly address the potential benefits this program will have for the student.

Staff and Training Dates

Identify each staff member having responsibility for implementing the program plan and the date each was trained.

All staff members and administrators having contact with the student, whether given responsibility for implementing the conditional procedure or not, must be fully trained on the procedural details of the plan. Those individuals responsible for implementing a conditional procedure must pass a test on the procedure with 100% accuracy

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Program Consent

Obtain parental informed consent by way of a parent's signature affixed to the plan, obtain the case manager's and an administrator's signature.

Parents must give informed, written consent to the use of conditional procedures. Their signature on the BIP will be evidence of this consent provided the case manager or social behavior specialist has verbally presented the plan to the parent(s). Give the parent(s) an information sheet for the procedure being used. Fill out the information at the bottom of the page. Give a copy to the parent(s) after it has been initialed and file the original in the Learner's file.

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Withdrawal of Consent.

A parent has the right to withdraw consent for a behavior intervention plan at any time by notifying the program administrator or designee and the district must stop the procedure immediately. After parental consent is withdrawn and the procedure is stopped, the school must send written acknowledgment to the parent and request parental signature. If a parent's signature to withdraw consent cannot be obtained, the district must document its efforts to communicate and obtain the signature. Parents must be contacted within three school days to determine the need to convene the IEP team to consider a change in program or a change of placement.

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| St. Croix River Education District Schools Chisago Lakes, East Central, Hinckley–Finlayson, Pine City, Rush City | Emergency Use of Conditional Procedures (M.R. 3525.0200) |
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Learner's Name:

School:

Grade:

Date of Emergency Use:

Person(s) Implementing Emergency Restraint

Description of the episode – be specific about places, times, circumstances, and persons involved (use initials to identify). (Describe the event using antecedent, behavior, consequent language – e.g., "When I asked John to take his seat for the beginning of world literature, he threw his book, swore at me and said he was going to kill me. John's facial expression flat and he had a fixed gaze, and he repeated that he was going to kill me after I asked him to go to the office. I then quietly asked the other students to clear the room and sent student JBL to the office for help when it was apparent John would not leave. I stopped talking to John and waited by the door. When the administrator arrived and John was asked to leave the room, he attempted to strike me with his fist. I blocked his fist and immediately took John down to the ground using an arm bar take-down. John is a large student and a wrestler, and I believed my only chance to contain him safely was by using the intrusive arm bar procedure. The moment I took him down, the administrator assisted me in restraining John. He was held prone with his arms in the small of his back and his legs cross locked until the police arrived. The episode began at 10:32 a.m. and ended at about 10:56 a.m.")

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Identify the Conditional Procedure (Check all that apply):

Manual Restraint Physical Escort Seclusionary Time Out
Mechanical Restraint Temporary Delay of Goods and Services

Injury Assessment: (note any obvious injuries that may have resulted from the use of the conditional procedure. If possible have the school nurse examine the student.)

Nurse's Name/Person making injury assessment:

Signature:

Date

Time

Notification: (The person who initiated the emergency use of conditional procedures must notify the building administrator, and he case manager [if other than the case manager], and the case manager or building administrator must notify the student's parent(s)/guardian on the day the emergency use happened. If contact with parents is not accomplished, a log of attempts to notify must be maintained until notification is accomplished.)

Administrator's Name:

Date Notified:

Time Notified:

Case Manager's Name:

Date Notified:

Time Notified:

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Parent/Guardian's Name:

Phone:

Date Notified:

Time Notified:

Comments:

Signatures:

Signature of Person Implementing Emergency Procedure:

Date:

Case Manager Signature:

Date:

Administrator Signature:

Date:

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|--|--|
| District Name Address City, State, Zip | Behavior Intervention Plans: Use Of Conditional Procedures (M.R. 3525.0200) |
|--|--|

Learner's Name: _____ Date: _____

Program Author:

School: _____ Grade: _____

Statement of the Problem:

Target Behavior (operational definition)

Non examples of the target behavior.

Baseline Date:

Summarize data and attach graph or data sheets:

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Replacement Behavior (operational definition)

Baseline Date:

Summarize data and attach graph or data sheets:

Summary of 2 non aversive intervention (attach graphs/data sheets):

Type of intervention (M.R. 3525.0200 requires documentation of at least 2 non aversive interventions. Identify type of interventions attempted and either attach documentation or site location in learner's file.)

Planned discussion
Restructuring self-talk
Mentoring
Goal setting and contracting

Academic assistance
Signal interference cueing
Peer tutoring/Peer counseling
Teaching incompatible/alternative

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| behaviors | |
| Self-monitoring | Structured reinforcement systems |
| Classroom management strategies | Increasing positive interactions |
| Functional communication training | Differential Attention |
| Other (please specify): | |

Corresponding IEP Goal and Objectives

Goal:

Objective #1:

Objective #2:

Objective #3:

Recommended Behavioral Intervention Procedures

A. Antecedent/Setting Condition Modifications

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B. Social Skills Training and Plan for Generalization

C. Motivational Plan (Describe the procedures and activities that will be used to facilitate and maintain the acquisition of alternative replacement behaviors. Include a description of the types of reinforcers, how they are earned, token exchange systems - if used - levels systems, and so on.)

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D. Behavior Reduction Procedures

Identify the Conditional Procedure (Check all that apply):

Manual Restraint Physical Escort Seclusionary Time Out
Mechanical Restraint Temporary Delay of Goods and Services

Specify the procedural details (i.e., conditions and settings, student behavior, staff behavior, procedural descriptions, duration of implementation, release criteria, etc.)

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E. Data Collection Method and Schedule of Monitoring:

F. Schedule Intervention Review Date:

G. Cautions, Side Effects, and Benefits

H. Staff Responsible for Implementation and Dates Trained:

- 1.
- 2.
- 3.

Date:
Date:
Date:

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| | |
|----|-------|
| 4. | Date: |
| 5. | Date: |
| 6. | Date: |
| 7. | Date: |

I. Program Consent and Signature

I have read the above information and hereby give my informed consent for the use of the procedures specified in this document with my student. I understand that I can withdraw my consent at any time, and by doing so, district personnel must immediately terminate the implementation of this program plan. On receipt of the request to terminate this intervention, the district will send a letter acknowledging termination of the conditional procedure and request you return a copy of the letter with your signature.

Approved by: _____ Date: _____
Relationship to Student: _____

J. Program and Administrator Signatures:

Program Author: _____

Administrator/Designee: _____

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Standards and Practices: Use of Physical Escorts, Manual Restraint, and Mechanical Restraints

Introduction

The standards and practices for the use of physical escorts, manual and mechanical restraint by staff in the schools of the St. Croix River Education District are in compliance with M.R. Sec. 3525.2900, Development and Content of the Individual Education Program Plan, subpart 5, of the Minnesota Special Education Rules. This document provides administrators, teachers, and parents with specific guidelines for the use of physical escorts and restraints in the school setting. These intervention practices should be used only as one part of a comprehensive behavior management plan which includes high rates of reinforcement for appropriate behavior and has ensure that academic performance deficits are adequately addressed by the student's IEP. This plan must be developed through the IEP process.

Use of any intervention requiring staff members to physically control the movement of a student must be carefully considered and planned. These procedures are more likely to serve therapeutic or instructional purposes when the student is in elementary grades, but may produce adverse, unwanted and unintended side-effects when used with students in secondary settings. For this reason proactive positive strategies are recommended prior to use of escorts and restraint. When used, these techniques must be part of a comprehensive behavior intervention plan.

Because the potential risk of injury to the student and/or staff member during escorting or restraint procedures, only individuals who have completed formal inservice training, not less than six hours in duration, are permitted to implement emergency and planned interventions using these procedures. This inservice training must include (1) methods and techniques for

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preventing and de-escalating potentially dangerous situations, and (2) methods for self-protection, least intrusive physical escort and least intrusive physical restraint techniques.

Use of Mechanical Restraint

Generally, the use of mechanical restraint for students with developmental and/or emotional disabilities is discouraged. The potential for injury to the student during application of mechanical restraints is considerable especially when the student is actively attempting to avoid the intervention. More importantly, however, is that use of mechanical restraints as a reductive intervention reduces the number of opportunities for the student to learn self-control through on-going teaching.

Bus Safety and Seat Belts or Harnesses

One exception to our general preference not to use mechanical restraints extends to the school bus environment. Situations in which a student repeatedly presents unsafe or dangerous behavior — behaviors that threaten the safety of other students directly through acts of aggression or distract the driver by causing the driver to divert attention from road conditions to monitor the student — may require use of seat belts or harnesses to prevent the student from moving about the bus.

It is imperative that each district have written policy guiding practice in this domain. These are factors that must be addressed by district transportation and administrative staff:

- Are seat belts on school buses authorized for use with special education student?
 - What age student?
 - Are special education students the only students who could be restrained with seat belts?
- What safety concerns must be present and for how long before considering their use?

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- What type of safety restraint is approved?
 - Can the child unlock the restraint in case of fire or accident without help?
 - What does the district's insurance require in this regard? Is this a potential liability issue?
- If a harness or seat belt is secure enough to prevent a child from moving about the bus, will an aid be needed to ensure the child's safe extraction in case of an emergency?

If policy is written to address the above concerns, then the IEP Team may proceed to develop an intervention plan provided they do so in a manner consistent with Federal, State, and District Safety Standards. Program development and practice is guided by Department of Children, Families and Learning rules for use of conditional procedures. Best practice and prudence require strict attention to the design and implementation of efficacious positive intervention strategies. This include but are not limited to:

- Structured reinforcement and behavior monitoring
- Use of older students to guide positive practice and reinforce progress
 - Use of a short-term management aid to provide on-going teaching and implement fading procedures.
 - Use of planned corrections (contracts + practice) during and immediately after school
 - Use of parent conferences to coordinate and plan program efforts.

The IEP Team must assure that the intervention is developmentally age appropriate and necessary to ensure the student's on-going receipt of educational services. Once the need for seat belts and/or harnesses has been determined the Team must write a BIP for use of mechanical restraints. The components for positive intervention described above are reasonable practices to maintain while implementing a seat belt restraint program. The use of seat belts or harnesses may be used either

- *contingently* – meaning the restraint is applied immediately following presentation of unsafe behavior, or

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- *passively* – meaning the restraint is applied at the beginning of the ride and removed at the end.

If restraint is applied *contingently*, then an instructional aid must be trained in its use and only the instructional aid may determine whether the behavioral conditions have been met to required use of restraint. If restraints are applied *passively*, then the Team must plan a schedule of routine probes designed to eliminate their prolonged use.

Use of Physical Escorts and Manual Restraint

Definitions and Considerations

Physical escort is an intervention that "...limit(s) a person's movement by using body contact," and is, therefore, a *conditional* procedure. Several physical escorting procedures may be effectively used depending on:

1. The program goals and objectives,
2. The age of the student,
3. The physical size and strength of the student,
4. The physical size and strength of the staff member(s), and
5. The student's behavioral and emotional history.

Physical Escort

Physical escorts are categorized by their level of intrusiveness. The following types of physical escorting procedures may be used as part of a comprehensive program plan and are part of the annual *Therapeutic Intervention and Manual Restraint* inservice training:

1. *Touch prompt* to the back or shoulder (not regulated, but part of the hierarchy)

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2. *Simple escort* — student's upper arm grasped above the elbow with one hand, and the student's wrist grasped from below with the other hand. Staff must use the least amount of physical force to produce guided movement.
3. *Advanced escort* — the student wrist is grasped from below (same side to same side – i.e., if on the student left side then the staff member grasps the student's left wrist from below with the left hand); the staff member's right hand moves between the student's upper arm and rib cage, reaches over the student's fore arm, and grasps the staff member's own wrist from above. From this position the student may be moved in the desired direction.
4. *Two person simple and advanced escort* — the escort procedures described above may be employed by two staff members when the risk of injury to the student or others due to severe resistance is probable or has been documented.
5. *Advanced escort with interlocking grasp behind the student's back* — this escort procedure requires two staff members and should be used only when the staff members believe they can safely manage a resisting student. The procedure is initiated with a staff member on each side of the student. Each staff member implements a *simple escort*. With one staff member providing the cues, the second directs the student's elbow backward (forearm parallel to the floor). The staff member giving the cues, reaches behind the student and grasps the forearm just below the elbow. Next, the staff member providing the cues, directs the student's same side elbow backward (forearm parallel to the floor) and the opposite side staff member reaches behind the student and grasps the forearm just below the elbow. In the final position, each staff member will be positioned so that their outside hand grasps the student's wrist from below and their inside hands will be crossed behind the student's back to grasp the student's forearm just below the elbow.
6. *Basic Come-Along* — The basic come-along may be used by one or two staff members. It is implemented by grasping the student's wrist (same side to same side: i.e., staff member's right hand grasps student's right wrist) from above. The student's wrist is then rotated 90° so that the palm is facing away from the student's body. At the same time, the staff member's other hand will be used to grasp the student's upper arm, just above the elbow, applying enough force to lock the arm in a straight line. To correctly lock the upper arm in place, the staff

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member's hand must form a U-shape with the thumb of the grasping hand placed on the inside of upper arm and the finger on the outside. The base or bottom of the U-shape must be placed just above the elbow bone. Care must be taken to not apply excessive force to the elbow. *This escorting procedure should be used only in extreme cases when a student needs to be immediately and safely contained or moved. The basic come-along is generally not appropriate for use with grade school children.*

Physical Restraints

Physical or manual restraints are procedures intended to immobilize or limit a student's physical movement.

Several physical restraint procedures may be effectively used depending on:

1. The program goals and objectives,
2. The age of the student,
3. The physical size and strength of the student,
4. The physical size and strength of the staff member(s), and
5. The student's behavioral and emotional history.

Physical restraints are categorized by their level of intrusiveness. The following types of physical procedures may be used as part of a comprehensive program plan and are part of the annual *Therapeutic Intervention and Manual Restraint* inservice training:

1. *Basket hold* — the basket hold is implemented by a staff member positioned behind the student. The procedure is initiated by pushing the arms forward with a force applied just above the elbows so that arms may be crossed in front of the body. The staff member immediately grasps the wrist of the student's arm that was crossed over the arm closest to the body so as to lock both in place. Once both arms are secure, the opposite wrist is grasped and the student's forearms are locked under the elbows in criss-cross fashion. The staff member must turn his/her body at right angles to the student and move his/her head back out of striking distance should the student attempt to hit the staff member with his/her head.

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From this position, the student may be escorted to place of safety by sliding backward, or the student may be placed in a sitting position in a chair or on the floor while being held securely in the basket hold position. Lastly, should it be unsafe to move the student, the staff member may move the student from a sitting basket hold to a prone basket hold by rolling the student over on to his/her stomach.

2. *Basic Come-Along and Take Down to Prone Holding* — Two or more staff members using a basic come-along can implement a take down to prone holding by applying downward pressure to upper arm while raising the wrist. This will cause the student to move to a kneeling position from which staff members may safely cause the student to lay face down. Once in the prone position, the staff members may hold the student's arms at the student's sides or cross the wrists at the small of the back (no higher). One person can either hold the legs to prevent kicking or hold the shoulders to prevent future struggling. *Care must be taken to prevent the student from hitting his/her head on the floor when moving to the prone position.*

WARNING:

PRONE HOLDING PROCEDURES ARE PROHIBITED FOR USE WITH STUDENTS WITH DOWN'S SYNDROME.

Students with Down's Syndrome have a congenital structural abnormality of the airway that may cause the airway collapse and suffocate the student during prone holding procedures. The Minnesota Department of Human Services issued a bulletin reporting on the death of several individuals with Down's Syndrome in residential settings who died during prone physical holding interventions.

General Programmatic Considerations

1. Physical escorting and manual restraint procedures may be considered for use in a very limited number of circumstances. These are the general response categories for which physical escort may be deemed appropriate:
 - a. ***Threat of or attempt to engage in physical violence***
 - b. ***Threat of or attempt to engage in significant property destruction***

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c. ***Extreme noncompliance — physical escort only***

2. Because these procedures are regulated by Minnesota statute, their use requires at a minimum a review of a written Behavior Intervention Plan by the Student Support Team (SST).
3. Prior to implementation, the student's parents/guardian must sign the Behavior Intervention Plan and must receive an Manual Restraint Information Sheet to be initialed by the parent. The BIP must be attached to the IEP and Information Sheet filed with the Case Manager.
4. All administrators, teachers, and instructional assistants using physical escorts or manual restraint must receive inservice training from a certified instructor and complete a test on the use of physical intervention procedures prior to implementing the program.
5. The specific target behavior(s) for which physical escort or manual restraint will be used must be defined on the BIP. Appropriate behaviors which will replace the behavior targeted for reduction must also be defined on the form. Systematic reinforcement must be implemented to increase the frequency of the replacement behaviors. Social Skills training must be provided to enhance the student's repertoire of appropriate behavior.
6. Data must be collected on the target behavior in order to assess the effectiveness of the physical escort or manual restraint procedure. All data collection must include a baseline measure (the rate before an intervention is implemented).
7. The use of physical escort procedures must be repeatedly and frequently probed to determine if less restrictive (e.g., verbal prompts) procedures can be used to cause the student to walk without assistance.
8. Release from manual restraint shall happen after 30—seconds of quiet non-resistant behavior. If restraint has not been accomplished within 15-minutes the student shall be released.

Procedures

1. Before beginning to use physical escort or manual restraint as a management procedure, identify and operationalize the behavior(s) which will result in its use. Be sure the student is afforded due process by understanding the behavior ahead of time. An explanation of the behavior may consist of telling the student, demonstrating the behavior, providing feedback and answering any questions the student may have ahead of time. The student must also be told

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how long the physical escort or manual restraint period will last. In the case of physical escorting, the student is to be told that he/she is free to walk to the requested area without assistance, but that if he/she refuses to leave, then physical assistance will be provided.

2. If physical assistance is required or the student meets the criterion for use of physical restraint, it must be accomplished with the least forceful method needed to produce the desired outcome.

3. As a rule, a student should not spend more than 15 minutes of manual restraint for each occurrence of the targeted behavior. Any manual restraint period which exceeds 15 minutes must adhere to the M.R. 3525.2900 concerning the emergency use of conditional procedures. Caution: any time a physical escort or manual restraint period exceeds 15 minutes the parents and special education director (or designee) must be notified within 24 hours.

4. Once the manual restraint period has ended, return the student to the on-going classroom activity either immediately if the student is calm and willing to return or after a period of recovery. Returning the student will aid in making sure the student is required to complete the task he/she was engaged in prior to the physical escort or manual restraint period. This will help ensure that students do not purposely avoid unpleasant tasks by creating conditions that result in the physical interventions. Do not ask the student why it was necessary to be sent to physical escort or manual restraint. Do not comment on how well the student behaved while in physical escort or manual restraint.

5. Record the use of physical escort or manual restraint on the Physical Escort or Manual Restraint Log. The log should be completed as soon as possible and should include the following information:

- a. Student's name
- b. The date the procedure was used
- c. The behavior resulting in physical escort or manual restraint
- d. The time the physical escort or manual restraint was implemented
- e. The time the physical escort or manual restraint terminated

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- f. The total time in physical escort or manual restraint
 - g. The student's behavior while in physical escort or manual restraint (note any injuries to student or staff and report immediately to the administrator and school nurse).
 - h. The initials of the staff member who placed the student in physical escort or manual restraint.
6. Graph physical escort or manual restraint data and review often (on at least a weekly basis) to determine the effectiveness of the physical escort or manual restraint procedure. With input from team members, adjust the IEP behavior management plan accordingly. Scheduled intervention review dates will be specified by the SST.

Prepared for the Member Districts of the

St. Croix River Education District:

Stuart R. Harder, M.A.

Social Behavior Support Services

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STANDARDS AND PRACTICES:

USE OF SECLUSIONARY TIME-OUT

Introduction

The standards and practices for the use of *seclusionary time-out* within the schools of the St. Croix River Education District are in compliance with M.R. 3525.2900, Development and Content of Individual Education Program Plan, subpart 5, of the Minnesota Special Education Rules. This document provides administrators, teachers, and parents with specific guidelines for the use of seclusionary time-out in the school setting. Seclusionary time-out should be used only as one part of a comprehensive behavior management plan which includes high rates of positive reinforcement for appropriate behavior. This plan must be developed through the IEP process.

Time-out is shortened form of the term "time-out from positive reinforcement." The idea of time-out is to remove the student from an activity which is reinforcing (activities the student find rewarding or valuable) and to a place which provides no reinforcement. The procedure is very much like having a child sit in a chair at home for a short period of time for misbehavior. There are a number of ways time-out can be used, ranging from *non-exclusionary time-out* procedures (e.g., planned ignoring, withdrawal of materials, seat away, etc.) to *exclusionary time-out* in which the student is removed from the area, to *seclusionary time-out* in which the student is isolated in specially designed room.

Time-out is widely recognized as an effective intervention for decreasing the frequency of severe problem behaviors such as physical aggression toward others or objects. Extensive research has shown that in order to maximize the procedure's effectiveness, a high rate of reinforcement must be available in the instructional setting. It is also important that students not be allowed to avoid tasks by going to time-out and that reinforcement is not available during the time-out period. This is why it is not advisable to use a child's bedroom at home or the hall or office at school for time-out.

Definition

Time-out is a behavior reductive technique for use with severe misbehavior. Its purpose is to reduce the severity or intensity of the severe misbehavior in the future. The procedure consists of removing a student from an environment which provides reinforcement to one which provides no reinforcement.

Use of Time-Out

1. Time-out must be used only for the most severe behaviors (e.g., physical aggression toward others or objects, extreme noncompliance) and only after positive intervention producers have been tried and found to be unsuccessful. The procedure must never be used for minor inappropriate behaviors (e.g., talking out, off task).

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2. Because seclusionary time-out meets the definition of a ***conditional intervention***, use of this intervention must be approved by a student's parents/guardian and have been approved for used following approval of a written program by the Student Support Team (SST) prior to implementation.
3. Prior to implementation of seclusionary time-out, parental permission is also required before using this intervention. Parents must sign the **Behavior Intervention Plan** to which is attached the Time-out Information for Parents sheet. The **Behavior Intervention Plan (BIP)** must be attached to the student's IEP.
4. All teachers and instructional assistants using time-out must be trained in advance and must complete the Time-out Room Test. A copy of each staff member's test must be kept on file and periodically reviewed with them.
5. The specific target behavior(s) for which time-out will be used must be defined on the BIP. Appropriate behaviors which will replace the behavior targeted for reduction must also be defined on the form. Systematic reinforcement must be implemented to increase the frequency of the replacement behaviors. Social Skills training must be provided to enhance the student's repertoire of appropriate behavior.
6. Data must be collected on the target behavior in order to assess the effectiveness of the time-out procedure. All data collection must include a baseline measure (the rate before an intervention is implemented).
7. The time period for length of time-out must be specified in advance. Generally, one minute per year of age of the student is appropriate (e.g., six minutes for a six-year-old student, ten minutes for a ten-year-old student). Under no circumstances must a student be told to go to time-out and come out when he/she can behave. The staff member in charge must always determine the length of the time-out period. **The maximum duration of seclusion time is 15-minutes without providing reasonable access to bathroom breaks and hydration.**
8. The policy for use of time out rooms (seclusionary time-out) must be posted near the time-out room.
9. An adult must be in the same room in relatively close proximity to the time-out room during the entire time-out procedure and must make frequent visual checks to ensure student safety and monitor student behavior.
10. If a student urinates or defecates while in the time-out room, it is customary for the student to clean the room under adult supervision at the end of the time-out period.
11. If a student damages the time-out room, it is customary for the parents to be contacted and consulted and arrangements made for the student to assist in restitution.

Procedures

1. Before beginning to use time-out as a management procedure, identify and operationalize the behavior(s) which will result in its use. Be sure the student is afforded due process by understanding the behavior ahead of time. An explanation of the behavior may consist of telling the student, demonstrating the behavior, providing feedback and answering any questions the student may have ahead of time. The student must also be told how long the time-out period will last.

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2. If the misbehavior occurs, identify it. Tell the student in a calm, "neutral" manner: "That's fighting, you need to go to time-out." Tell the student to remove jewelry, belt and shoes. Tell the student to empty pockets (in order to check for such items as pens, pencils, paper clips, knives, etc.). Socks should be checked for these types of items also. If the student does not comply with the request to empty pockets, ask for back-up and empty pockets yourself. No other conversation should ensue. Ignore any questions or any statements the student may make as an excuse for misbehavior. If you encounter resistance from the student, you should:
 - a. Gently but firmly lead the student to the time-out room.
 - b. Require the student to clean up any mess resulting from resistance to time-out at the end of the time-out period before returning to classroom activities.
 - c. Be prepared to add time to the time-out period if the student refuses to go or is physically aggressive (hits, kicks, turns over furniture, etc.). If the student refuses to go to time-out, add one minute to the time, up to two additional minutes. If the student continues to refuse at this point, request help from back-up staff to place the student in time-out. It may be useful to plan a one-word signal ahead of time to communicate to staff that help is needed immediately.
3. Once a student enters the time-out room, the time begins. Check the clock or set a timer. Release from time-out is contingent upon a minimum duration of time-out (generally one minute per year of age). Furthermore, the student is not released from time-out until the student is quiet for 30—60 seconds at the end of the time-out period. The IEP team will always make a final determination as to what is an appropriate minimum duration of time-out as well as the amount of required quiet time for each student.
4. As a rule, a student should not spend more than 15 minutes in time-out for each occurrence of the targeted behavior without providing reasonable access to bathroom breaks and hydration. Any time-out period which exceeds 55 minutes must adhere to the State Minnesota Statute 3525.2900 concerning the emergency use of conditional procedures. Caution: any time a time-out period exceeds 30 minutes the parents and special education director (or designee) must be notified within 24 hours.
5. Once the time-out period has ended, return the student to the on-going classroom activity, making sure the student is required to complete the task he/she was engaged in prior to the time-out period. This will ensure that students do not purposely avoid unpleasant tasks by going to time-out. Do not ask the student why it was necessary to be sent to time-out. Do not comment on how well the student behaved while in time-out.
6. Record the use of time-out on the Time-out Log. The log should be posted on the time-out room and should include the following information:
 - a. Student's name
 - b. The date the procedure was used
 - c. The behavior resulting in time-out
 - d. The time the student was placed in time-out
 - e. The time the student was released from time-out
 - f. The total time in time-out
 - g. The student's behavior while in time-out
 - h. The initials of the staff member who placed the student in time-out.
7. Graph time-out data and review often (on at least a weekly basis) to determine the

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effectiveness of the time-out procedure. With input from team members, adjust the IEP behavior management plan accordingly. Scheduled intervention review dates will be specified by the SST.

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