

## **Restrictive Procedures H.F. 630**

**Sara Winter, J.D.**  
**Minnesota Department of Education**  
**Division of Compliance and Assistance**  
[sara.winter@state.mn.us](mailto:sara.winter@state.mn.us)  
**651.582.8237**



Effective July 1, 2013

## **Introduction**

**Effective *July 1, 2013*, new statutory provisions pertaining to restrictive procedures are in effect.**

- **Statutory provisions:**
  - **Minn. Stat. § 125A.094, Restrictive Procedures for Children with Disabilities**
  - **Minn. Stat. § 125A.0941, Definitions**
  - **Minn. Stat. § 125A.0942, Standards for Restrictive Procedures**
- **Apply to children with disabilities**
- **Apply to public schools**
- **No rules authorized**



## Introduction

	Federal Level	State Level
2009	<ul style="list-style-type: none"> <li>· Congressional Hearings</li> <li>· GAO Report</li> <li>· Duncan Letter</li> <li>· H.R. 4247 Preventing Harmful Restraint and Seclusion in Schools</li> </ul>	Restrictive Procedures for Children with Disabilities - passes effective Aug. 1, 2011
2010		
2011	Keeping All Students Safe Act introduced	Restrictive Procedures for Children with Disabilities - amended effective Aug. 1, 2011
2012	Restraint and Seclusion: Resource Document	Restrictive Procedures for Children with Disabilities - amended effective April 3, 2012
2013	Keeping All Students Safe Act reintroduced	Restrictive Procedures for Children with Disabilities - amended effective July 1, 2013

## Introduction

- **Minnesota Department of Education**
  - Restrictive Procedures Webpage

<http://education.state.mn.us/MDE/SchSup/ComplAssist/RestProc/index.html>

- **United States Department of Education**
  - Restraint and Seclusion: Resource Document

<http://www.ed.gov/ppolicy/seclusion/index.html>

## Definitions

### Restrictive Procedures

**“Restrictive Procedures” means the use of physical holding or seclusion in an emergency.**

***Restrictive procedures must not be used to punish or otherwise discipline a child.***

*Minn. Stat. § 125A.0941(f)*

Minnesota Department of  
Education

5

## Definitions

### Physical Holding

**“Physical holding” means physical intervention intended to hold a child immobile or limit a child's movement where body contact is the only source of physical restraint, and where immobilization is used to effectively gain control of a child in order to protect a child or other *individual* from *physical* injury.**

**Physical holding does not mean physical contact that:**

1. helps a child respond or complete a task;
2. assists a child without restricting the child's movement;
3. is needed to administer an authorized health-related service or procedure; or
4. is needed to physically escort a child when the child does not resist or the child's resistance is minimal.

*Minn. Stat. § 125A.0941(c)*

Minnesota Department of  
Education

6

## Definitions

### Prone Restraint

**“Prone restraint” means placing a child in a face down position.**

- **Prone restraint is a type of physical holding.**
- **Prone restraint may only be used until August 1, 2015.**
- **Prone restraint may only be used with children age five or older.**

*Minn. Stat. § 125A.0941(e) and Minn. Stat. § 125A.0942, Subd. 3(a)(8)*

## Definitions

### Seclusion

**“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)*

## Definitions

### Emergency

**“Emergency”** means a situation where immediate intervention is needed to protect a child or other individual 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.***

Minn. Stat. § 125A.0941(b)

## Before Using Restrictive Procedures

### Restrictive Procedures Plan

Schools that intend to use restrictive procedures shall maintain and make publicly accessible *in an electronic format on a school or district Web site or make a paper copy available upon request* describing a restrictive procedures plan for children *with disabilities* that at least:

1. **lists the restrictive procedures the school intends to use;**
2. ***describes how the school will implement a range of positive behavior strategies and provide links to mental health services;***

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

## Before Using Restrictive Procedures

### Restrictive Procedures Plan

3. **describes** how the school will monitor and review the use of restrictive procedures, including;
- (i) **conducting post-use debriefings, consistent with the documentation requirements; and**

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

## Before Using Restrictive Procedures

### Restrictive Procedures Plan

- (ii) **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 nonemergency situations;***
  - ***the need for additional staff training; and***
  - ***proposed actions to minimize the use of restrictive procedures.***

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

## Before Using Restrictive Procedures

### Restrictive Procedures Plan

4. *includes a written description and documentation of the training staff completed (twelve skills and knowledge areas).*

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

## Before Using Restrictive Procedures

### Restrictive Procedures Plan

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

- *a mental health professional, school psychologist, or school social worker;*
- *an expert in positive behavior strategies;*
- *a special education administrator; and*
- *a general education administrator.*

Minn. Stat. § 125A.0942, Subd. 1(b)

## Before Using Restrictive Procedures

### Who May Use Restrictive Procedures?

Restrictive procedures may only be used by the following staff after completion of training in the twelve outlined skills and knowledge areas:

- Licensed special education teacher;
- School social worker;
- School psychologist;
- Behavior analyst certified by the National Behavior Analyst Certification Board;
- A person with a master's degree in behavior analysis;
- Other licensed education professional;
- Paraprofessional under section 120B.363; or
- Mental health professional under section 245.4871, Subd. 27.

*Minn. Stat. § 125A.0942, Subd. 2(a)*

## Before Using Restrictive Procedures

### Training

Staff who use restrictive procedures, *including paraprofessionals*, shall complete training in the following twelve skills and knowledge areas:

1. Positive behavioral interventions;
2. Communicative intent of behaviors;
3. Relationship building;
4. Alternatives to restrictive procedures, including techniques to identify events and environmental factors that may escalate behavior;
5. De-escalation methods;

*Minn. Stat. § 125A.0942, Subd. 5*



## Before Using Restrictive Procedures

### Training

#### Skills and Knowledge Areas (cont.)

6. Standards for using restrictive procedures *only in an emergency*;
7. Obtaining emergency medical assistance;
8. The physiological and psychological impact of physical holding and seclusion;
9. Monitoring and responding to a child's physical signs of distress when physical holding is being used;
10. Recognizing the symptoms of and interventions that may cause positional asphyxia when physical holding is used;
11. District policies and procedures for timely reporting and documenting each incident involving use of restrictive procedure; and
12. Schoolwide programs on positive behavior strategies.

Minn. Stat. § 125A.0942, Subd. 5

## Before Using Restrictive Procedures

### Prone Restraint

- Only staff that has received specific training on the use of prone restraints may use prone restraint.
- The district must provide to MDE a list of staff who have had specific training on the use of prone restraints.
- The district must provide to MDE information on the type of training that was provided and by whom.
- The district must have reviewed any known medical or psychological limitations that contraindicate the use of prone restraints.

Minn. Stat. § 125A.0942, Subd.3(a)(8)

## **Before Using Restrictive Procedures**

### **Room Used for Seclusion**

**A room used for seclusion, unlocked or locked, must:**

- 1. be at least six feet by five feet;**
- 2. be well lit, well ventilated, adequately heated, and clean;**
- 3. have a window that allows staff to directly observe a child in seclusion;**
- 4. have tamperproof fixtures, electrical switches located immediately outside the door, and secure ceilings;**

*Minn. Stat. § 125A.0942, Subd. 3(a)(6)(i-vi)*

## **Before Using Restrictive Procedures**

### **Room Used for Seclusion**

#### **Seclusion Room Requirements (*cont.*)**

- 5. have doors that open out and are unlocked, locked with keyless locks that have immediate release mechanisms, or locked with locks that have immediate release mechanisms connected with a fire and emergency system; and**
- 6. not contain objects that a child may use to injure the child or others.**

*Minn. Stat. § 125A.0942, Subd. 3(a)(6)(i-vi)*

## Before Using Restrictive Procedures

### Room Used for Seclusion

#### Locking Mechanisms

Any locking mechanism that prevents egress from a room for seclusion must be connected to the fire safety systems as required by the Minnesota State Fire Code. This includes, but is not limited to, all magnetic or other electronic locks used on rooms for seclusion, as well as a constant push button locking arrangement.

*Minn. R. 7511.1008, subp. 3*

## Before Using Restrictive Procedures

### Room Used for Seclusion

#### Written Notice

Before using an unlocked or locked room for seclusion, a school must:

- receive written notice from local authorities that each room for seclusion and the locking mechanisms comply with applicable building, fire, and safety codes.
  - Authorities include a deputy State Fire Marshal or local building inspector.
  - Written notices include an Inspection Order or Certificate of Occupancy.

*Minn. Stat. § 125A.0942, Subd. 3(a)(7)(i)*

## **Before Using Restrictive Procedures**

### **Room Used for Seclusion**

#### **Registration**

**Before using an unlocked or locked room for seclusion, a school must:**

- **register the room for seclusion with MDE.**

*Minn. Stat. § 125A.0942, Subd. 3(a)(7)(ii)*

## **Standards**

### **Emergencies Only**

- **Restrictive procedures may only be used in an emergency.**
- **Restrictive procedures may be written into a child's IEP or BIP.**
  - **However, the use of restrictive procedures may still only be used in response to behavior that constitutes an emergency.**

*Minn. Stat. § 125A.0942, Subd. 2(f) and Minn. Stat. § 125A.0942, Subd. 3(a)*

## Standards

### Requirements for Using Physical Holding or Seclusion

A school that uses physical holding or seclusion shall meet the following requirements:

1. Is the least intrusive intervention that effectively responds to the emergency;
2. *Is not used to discipline a noncompliant child;*
3. Ends when the threat of harm ends and the staff determines the child can safely return to the classroom or activity;

Minn. Stat. § 125A.0942, Subd. 3(a)(1-5)

Minnesota Department of  
Education

25

## Standards

### Requirements for Using Physical Holding or Seclusion

#### Requirements (*cont.*)

4. Staff directly observes the child; and,
5. The staff person who implements or oversees the physical holding or seclusion documents, as soon as possible after the incident concludes.

These requirements also apply to the use of prone restraint, a type of physical holding.

Minn. Stat. § 125A.0942, Subd. 3(a)(1-5)

Minnesota Department of  
Education

26

## **Standards**

### **Documentation for Using Physical Holding or Seclusion**

**Each time physical holding or seclusion is used, the staff person who implements or oversees the physical holding or seclusion documents, as soon as possible after the incident concludes:**

- 1. A description of the incident that led to the physical holding or seclusion;**
- 2. Why a less restrictive measure failed or was determined by staff to be inappropriate or impractical;**

*Minn. Stat. § 125A.0942, Subd. 3(a)(5)(i-iv)*  
Minnesota Department of  
**Education**

27

## **Standards**

### **Documentation for Using Physical Holding or Seclusion**

**Documentation (*cont.*)**

- 3. The time the physical holding or seclusion began and the time the child was released; and,**
- 4. A brief record of the child's behavioral and physical status.**

**These requirements also apply to the use of prone restraint, a type of physical holding.**

*Minn. Stat. § 125A.0942, Subd. 3(a)(5)(i-iv)*

Minnesota Department of  
**Education**

28

## **Standards**

### **Additional Reporting Requirements for Using Prone Restraint**

**Each incident of the use of prone restraint must be reported to MDE within five working days on a form provided by the MDE.**

*Minn. Stat. § 125A.0942, Subd. 3(a)(8)(iv)*

Minnesota Department of  
Education

29

## **Standards**

### **Additional Reporting Requirements for Using Restrictive Procedures**

***By June 30 each year, districts must report summary data on their use of restrictive procedures to MDE, in a form and manner determined by the commissioner.***

*Minn. Stat. § 125A.0942, Subd. 3(b)*

Minnesota Department of  
Education

30

## Standards

### Reporting Requirement

- Within 24 hours after a student with a disability suffers death or serious injury, the school district must notify the Office of the Ombudsman of the death or serious injury.
- Reports of death or serious injury may be done by faxing a completed form, available at <http://www.ombudmhdd.state.mn.us/forms>, to the Office of the Ombudsman.
- State of Minnesota Office of the Ombudsman for Mental Health and Developmental Disabilities: <http://www.ombudmhdd.state.mn.us>

Minnesota Department of  
Education

31

## Standards

### Reporting Requirement Serious Injury

“Serious injury” means:

1. fractures;
2. dislocations;
3. evidence of internal injuries;
4. head injuries with loss of consciousness;
5. lacerations involving injuries to tendons or organs, and those for which complications are present;
6. extensive second-degree or third-degree burns, and other burns for which complications are present;

Minnesota Department of  
Education

32



## **Standards**

### **Reporting Requirement**

#### **Serious Injury (cont.)**

- 7. extensive second-degree or third degree frostbite, and others for which complications are present;**
- 8. irreversible mobility or avulsion of teeth;**
- 9. injuries to the eyeball;**
- 10. ingestion of foreign substances and objects that are harmful;**
- 11. near drowning;**

## **Standards**

### **Reporting Requirement**

#### **Serious Injury (cont.)**

- 12. heat exhaustion or sunstroke; and**
- 13. all other injuries considered serious by a physician.\***
  - Additionally, the Office of the Ombudsman asks that instances of self-injurious behaviors (SIB) or suicide attempts be reported to the Office when the injury results in hospitalization of the student or the need for medical treatment.**

**\*Further defined by the Office of the Ombudsman to include complications of a previous injury, complications of medical treatment, and other.**

*Minn. Stat. § 245.91, Subd. 6*

## Standards

### Notification to Parents

**A school shall make:**

- **Reasonable efforts to notify the parent on the same day a restrictive procedure is used; or**
- **If unable to provide same-day notice, notice is sent within two days by:**
  - **written means;**
  - **electronic means; or**
  - **as otherwise indicated by the parent in the child's IEP or BIP.**

*Minn. Stat. § 125A.0942, Subd. 2(b) and Minn. Stat. § 125A.0942, Subd. 2(f)*

Minnesota Department of  
Education

35

## Standards

### IEP Team Meetings – Restrictive Procedures

**An IEP team meeting must be held:**

- ***Within ten calendar days after district staff use restrictive procedures on two separate school days within 30 calendar days; or***
- ***A pattern of use emerges and the child's IEP or BIP does not provide for using restrictive procedures in an emergency; or***
- ***At the request of a parent or the district after restrictive procedures are used.***

*Minn. Stat. § 125A.0942, Subd. 2(c)*

Minnesota Department of  
Education

36

## Standards

### IEP Team Meetings – Restrictive Procedures

During the IEP team meeting, the team must:

1. conduct or review a functional behavioral analysis;
2. review data;
3. consider developing additional or revised PBIS;
4. consider actions to reduce the use of restrictive procedures;
5. modify the IEP or BIP as appropriate;
6. review any known medical or psychological limitations, *including any medical information the parent provides voluntarily*, that contraindicate the use of a restrictive procedure;
7. consider whether to prohibit that restrictive procedure; and
8. document any prohibition in the IEP or BIP.

Minn. Stat. § 125A.0942, Subd. 2(c) and (e)

## Standards

### IEP Team Meetings – Restrictive Procedures

- *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 ten or more school days during the same school year,*  
*the team, as appropriate, either must:*
  - *consult with other professionals working with the child;*
  - *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 child.*

Minn. Stat. § 125A.0942, Subd. 2(d)

## Standards

### IEP Team Meetings – Restrictive Procedures

***The district must review use of restrictive procedures at a child's annual IEP meeting when the child's IEP provides for using restrictive procedures in an emergency.***

*Minn. Stat. § 125A.0942, Subd. 2(c)*

## Standards

### Contraindicate

- **Contraindicate:** to make (a treatment or procedure) inadvisable.
- **A contraindication is a specific situation in which a procedure should NOT be used, because it may be harmful to the child.**

*Webster's Ninth New Collegiate Dictionary and Medline Plus Medical Encyclopedia*

## Standards

### Functional Behavioral Assessment

**“Functional behavioral assessment” or “FBA” means a process for gathering information to maximize the efficiency of behavioral supports. An FBA includes a description of problem behaviors and the identification of events, times, and situations that predict the occurrence and nonoccurrence of the behavior. An FBA also identifies the antecedents, consequences, and reinforcers that maintain the behavior, the possible functions of the behavior, and possible positive alternative behaviors. An FBA includes a variety of data collection methods and sources that facilitate the development of hypotheses and summary statements regarding behavioral patterns.**

*Minn. R. 3525.0210, subp. 22*

Minnesota Department of  
Education

41

## Standards

### IEP Team Meetings – Removal by Peace Officer

**An IEP team meeting must be held:**

**when a pupil who has an IEP is restrained or removed from a classroom, school building, or school grounds by a peace officer at the request of a school administrator or a school staff person during the school day twice in a 30-day period.**

*Minn. Stat. § 121A.67, Subd.2*

Minnesota Department of  
Education

42

## **Standards**

### **IEP Team Meetings – Removal by Peace Officer**

**During the IEP team meeting, the team must:**

**determine if the pupil's individual education plan is adequate or if additional evaluation is needed.**

*Minn. Stat. § 121A.67, Subd. 2*

Minnesota Department of  
**Education**

43

## **Standards**

### **Prohibitions**

**The following actions or procedures are prohibited:**

- 1. Engaging in conduct prohibited under section 121A.58 (corporal punishment);**
- 2. Requiring a child to assume and maintain a specified physical position, activity, or posture that induces physical pain;**
- 3. Totally or partially restricting a child's senses as punishment;**
- 4. Presenting an intense sound, light, or other sensory stimuli using smell, taste, substance, or spray as punishment;**

*Minn. Stat. § 125A.0942, Subd. 4*

Minnesota Department of  
**Education**

44

## Standards

### Prohibitions

#### Prohibited Actions or Procedures (cont.)

5. Denying or restricting a child's access to equipment and devices such as walkers, wheelchairs, hearing aids, and communication boards that facilitate the child's functioning, except when temporarily removing the equipment or device is needed to prevent injury to the child or others or serious damage to the equipment or device, in which case the equipment or device shall be returned to the child as soon as possible;

*Minn. Stat. § 125A.0942, Subd. 4*

## Standards

### Prohibitions

#### Prohibited Actions or Procedures (cont.)

6. Interacting with a child in a manner that constitutes sexual abuse, neglect, or physical abuse under section 626.556;
7. Withholding regularly scheduled meals or water;
8. Denying access to bathroom facilities; and
9. Physical holding that restricts or impairs a child's ability to breathe, restricts or impairs a child's ability to communicate distress, places pressure or weight on a child's head, throat, neck, chest, lungs, sternum, diaphragm, back, or abdomen, or results in straddling a child's torso.

*Minn. Stat. § 125A.0942, Subd. 4*

## **PBIS**

### **Definition**

#### **Positive Behavioral Interventions and Supports**

**“Positive behavioral interventions and supports” means interventions and strategies to improve the school environment and teach children the skills to behave appropriately.**

*Minn. Stat. § 125A.0941(d)*

Minnesota Department of  
**Education**

47

## **PBIS**

### **Policy**

#### **Behavior Interventions**

**This policy is intended to encourage the use of positive approaches to behavioral interventions. The objective of any behavioral intervention must be that pupils acquire appropriate behaviors and skills. It is critical that behavioral intervention programs focus on skills acquisition rather than merely behavior reduction or elimination. Behavioral intervention policies, programs, or procedures must be designed to enable a pupil to benefit from an appropriate, individualized educational program as well as develop skills to enable them to function as independently as possible in their communities.**

*Minn. R. 3525.0850*

Minnesota Department of  
**Education**

48



## **PBIS**

### **Encouragement Behavior Supports**

**School districts are encouraged to establish effective school-wide systems of positive behavior interventions and supports.**

*Minn. Stat. § 125A.0942, Subd. 6*

Minnesota Department of  
**Education**

49

## **PBIS**

### **IEP Team Consideration**

#### **Development of Individualized Education Program Plan**

**The IEP team shall: in the case of a pupil whose behavior impedes his or her learning or that of others, consider, when appropriate, strategies, including positive behavioral interventions and supports to address that behavior.**

*Minn. R. 3525.2810, subp. 2(B)(1); see also, 34 C.F.R. § 300.324(a)(2)(i)*

Minnesota Department of  
**Education**

50

## **PBIS**

### **Resources**

Office for Special Education Programs, U.S. Department of Education's website

- <http://pbis.org>

Association for Positive Behavior Support (APBS) website

- <http://apbs.org>

Positive Behavioral Intervention and Support in Minnesota

- <http://pbismn.org>

Minnesota Department of  
Education

51

## **Questions**

**Sara Winter, J.D.**

**Minnesota Department of Education  
Division of Compliance and Assistance**

**[sara.winter@state.mn.us](mailto:sara.winter@state.mn.us)**

**651.582.8237**

Minnesota Department of  
Education

52